GUIDELINES FOR EXAMINATION OF EUROPEAN UNION TRADE MARKS

EUROPEAN UNION INTELLECTUAL PROPERTY OFFICE (EUIPO)

Part B

Examination

Section 3

Classification

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1 Introduction

Recital 28, EUTMR

Articles 4, 31, 33, 49 and 57 EUTMR

Article 2(1)(c) EUTMIR

European Union trade mark protection is granted in relation to specific goods or services which determine the extent of protection afforded to the trade mark proprietor. It is, therefore, essential to lay down rules for the indication and the classification of goods and services and to ensure legal certainty.

The indication of goods and services corresponds to one of the essential characteristics of a trade mark (Article 4 EUTMR). For a filing date to be accorded, every EUTM application must contain a list of goods and services (Article 31(1)(c) EUTMR).

The list of goods and services for which protection is sought must be (a) identified by the applicant with sufficient clarity and precision to enable the competent authorities and economic operators to determine the extent of the protection sought and (b) grouped according to the classes of the Nice Classification (Article 33(2) and (6) EUTMR).

The list of goods and services may be restricted or amended by the applicant in the application, provided that the restriction or amendment does not extend the list of goods and services (Article 49 EUTMR). After registration the trade mark may be surrendered in respect of some of the goods and services (Article 57 EUTMR).

The Office recommends selecting the goods and services from the database of acceptable terms made available by the Office (see paragraph 3). Any part of the list of goods and services that does not match the data from the tools will be examined following the principles set out in these Guidelines.

The purpose of this Section of the Guidelines is to describe Office practice in examining the classification of goods and services.

The first part (paragraphs 1 to 4) sets out the principles applied by the Office. The second part (paragraph 5) summarises the procedure for examining the list of goods and services.

In short, when examining the classification of a list of goods and services, the Office will carry out four tasks:

- checking that each of the goods and services is sufficiently clear and precise;
- checking that each term belongs to the class in which it is listed;
- notifying any deficiency;
- refusing the application, in whole or in part, where the deficiency is not remedied.

For information on the language from which the examination of classification and the translations are made, see theGuidelines, Part B, Examination, Section 2, Formalities, paragraph 6.1, First and second languages and paragraph 6.3, Reference language for translations.

2 The Nice Classification

Goods and services in respect of which trade mark registration is applied for are classified in accordance with the system of classification established by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957 (the Nice Classification). The Nice Classification is administered by the World Intellectual Property Organization (WIPO) (Article 33(1) EUTMR).

Goods and services are organised in classes to facilitate pre-clearance searches before filing an application to avoid conflict, to allow surveillance searches and in order to monitor possible competition. In addition, the classes are taken into account to calculate class fees.

As a system aimed at reflecting market needs, the Nice Classification is updated on a regular basis. Minor improvements are published every year in versions of the current edition, while significant changes are incorporated in a new edition every 3 years.

The version of the classification under the Nice Agreement in force at the filing date will be applied to the classification of the goods or services in an application. Article 33 EUTMR requires every list of goods and services to:

- be identified by the applicant with sufficient clarity and precision to enable the competent authorities and economic operators to determine the extent of the protection sought;
- be arranged according to the Nice Classification, with each group preceded by the number of the class to which the goods or services belong, and presented in the order of the classes.

The Nice Classification contains guidance for classification.

1. **Class Headings** — these exist for each class and indicate in a general manner the fields to which, in principle, the goods or services belong.
2. **Explanatory Notes** — these exist for each class and clarify, in a more abstract manner, the criteria of which type or examples of goods or services are included, or not included, in the class.
3. **Alphabetical List** — this may be consulted in order to ascertain the exact classification of individual goods or services by analogy.
4. **General Remarks** — placed at the beginning of the Nice Classification, these are a short collection of basic principles explaining what criteria should be applied if a term cannot be classified in accordance with the Class Headings or Alphabetical List.

More information regarding the Nice Classification can be found on WIPO's website at: http://www.wipo.int.

3 Other administrative tools for classification purposes

When filing an electronic application, users can select preapproved terms to build their list of goods and services. These terms originate from the Harmonised Database (HDB) and will automatically be accepted for classification purposes. Using these preapproved terms will facilitate a smoother trade mark registration process. The HDB brings together terms that are accepted for classification purposes in all EU offices.

Should the applicant use a list of goods and services that has terms not found in the HDB, the Office will have to examine whether they can be accepted.

Before filing an application, users can search the content of the HDB using the Office's TMclass tool (http://tmclass.tmdn.org/ec2/).This tool brings together classification databases of participating offices both within and outside the EU and shows whether a term is accepted by the office concerned. TMclass groups goods and services according to shared characteristics from a market perspective, starting from the more general and ending with the more specific. This offers users a simplified search and a better overview of the content of each class, thus facilitating the selection of appropriate terms. This grouping and ranking, also called taxonomy, has no legal effect, since the scope of protection of an EUTM is always defined by the natural and usual meaning of the terms chosen, not by their position in the hierarchical structure of the Office's taxonomy (10/12/2015, T-690/14, Vieta, EU:T:2015:950, § 66).

4 List of goods and services

4.1 Choosing adequate scope of protection

The essential function of the protection afforded by a trade mark is to guarantee to the consumer an indication of origin of the goods or services, by enabling him or her, without any possibility of confusion, to distinguish the goods or services from others that have another origin.

Furthermore, the indication of goods and services may be restricted (Article 49 EUTMR) or surrendered (Article 57 EUTMR) at any time, but the initial scope of protection may never be broadened.

With that in mind, it is of crucial importance to carefully designate a list of goods and services that:

- not only covers the current interests in protection but takes into account also future possibilities, by indicating categories of goods or services the trade mark proprietor might be likely to expand to,
- but also reduces potential conflict with other marks and minimises the risk of becoming vulnerable to attack, by avoiding an overly broad or unnecessarily long list of goods and services,

- avoids the use of synonyms which, in effect, merely repeat the same good or service.

As far as services for which trade mark protection can be sought are concerned, these are, in principle, generally offered independently to third parties and supplied for an economic consideration. When an undertaking offers services connected with its own products, such as their research and development, these services do not constitute an external service for third parties. If a service is not provided to third parties, but is simply an internal working of the undertaking, it would be redundant for it to be covered in the list of goods and services of the application (30/09/2016, T-355/15, ASTEX / ALPEX, EU:T:2016:591, § 37). The same applies to ancillary activities, such as the manufacture, sale or advertising of an undertaking's own products.

4.2 Clarity and precision

4.2.1 General principles

The goods and services for which protection of the trade mark is sought must be identified by the applicant with sufficient clarity and precision to enable the competent authorities and economic operators, on that basis alone, to determine the extent of protection sought (Article 33(2) EUTMR).

An indication of goods and services is sufficiently clear and precise when its scope of protection can be understood from its natural and usual meaning.

'Natural and usual meaning' refers to the general definition of a term, in other words how the term is commonly understood. It will frequently be defined by a grammatical interpretation in the language in which the application is filed, by definitions given in the Nice Classification, by use in dictionaries and encyclopaedias, and by the commercial language of traders.

The examination of the indication of goods and services as being clear and precise is independent of the examination as to absolute or relative grounds.

4.2.2 Influence of classification on the scope of protection

A correct classification should in principle be enough to allow for an unambiguous scope of protection. A particular term may be part of the description of goods and services in different classes, but equally it may be clear and precise in a particular class without further specification. In this case its natural and usual meaning and the class number will leave no doubt as to the scope of protection.

For example, the natural and usual meaning of the term *clothing* is garments for humans with the purpose of covering the body for normal use. Therefore, this term would leave no doubt as to the scope of protection if applied for in Class 25 (see the Explanatory Note for Class 25).

If the scope of protection cannot be understood, sufficient clarity and precision may be achieved by further identifying factors such as characteristics, purpose and/or identifiable market sector. ([8]) Elements that could help to identify the market sector may be, but are not limited to, the following:

- consumers and/or sales channels;
- skills and know-how to be used/produced;
- technical capabilities to be used/produced.

If protection is sought for a specialised category of goods and services or a specialised market sector belonging to a different class, further specification of the term may be necessary.

For example: *clothing* ***for protection against fire*** (Class 9);

clothing ***for operating rooms*** (Class 10);

clothing ***for pets*** (Class 18);

clothing ***for dolls*** (Class 28).

From these examples it is obvious that the term *clothing* can be interpreted in various ways but must always be defined by purpose or market sector pertaining to a particular Nice class. In addition, it shows that *clothing* in Class 25 would **not** cover any of the categories of goods mentioned above.

In principle, the Office understands the class number as being indicative of the characteristics of the goods or services, such as the predominant material, the main purpose or the relevant market sector, considering the natural and usual meaning of each term at the same time. Each term is assessed in the context of the class in which it is applied for (25/01/2018, T-367/16, H HOLY HAFERL HAFERL SHOE COUTURE (fig.) / HOLY et al.; EU:T:2018:28, § 50; 19/06/2018, T-89/17, NOVUS / NOVUS (fig.) et al., EU:T:2018:353, § 32-33).

TMclass (http://tmclass.tmdn.org/ec2/), which is a tool based on the HDB, is available for determining whether the particular category of goods and services needs further specification or not.

4.2.3 Use of expressions (e.g. ‘namely’, ‘in particular’) to determine the scope of the list of goods/services

The use of the words ‘namely’ or ‘being’ is acceptable but must be understood as a restriction to the specific goods and services listed thereafter (04/10/2016, T-549/14, Castello / Castellò (fig.) et al., EU:T:2016:594, § 71). For example, *pharmaceutical preparations, namely analgesics* in Class 5 means that the application only covers analgesics and not any other type of pharmaceuticals.

The expression ‘in particular’ can also be accepted as it serves to indicate an example of the goods and services applied for. For example, *pharmaceutical preparations, in*

8 Market sector describes a set of businesses that are buying and selling such similar goods and services that they are in direct competition with each other.

particular analgesics means that the application covers any kind of pharmaceuticals, with *analgesics* being an example.

The same interpretation applies to use of the terms 'including', 'including (but not limited to)', 'especially' or 'mainly', as in the example *pharmaceutical preparations, including analgesics*.

A term that would normally be considered unclear or imprecise can be made acceptable by making it more specific, for example, by using 'namely' and a list of acceptable terms. Examples include *goods of common metal, namely, screws* for goods in Class 6 and *goods of precious metals, namely bracelets* for goods in Class 14.

The Office therefore recommends indicating the actual goods and services and to avoid using 'namely', 'in particular' or similar expressions. If the terms 'namely' or 'in particular' are used in the list of goods and services, the classification may not be accepted automatically, which could slow down the examination procedure.

Examples of **restrictive use**

Class 29: *Dairy products namely cheese and butter*	'Namely' restricts the goods to cheese and butter, excluding all other dairy products.
Class 41: *Provision of sports facilities, all being outdoors*	This restricts the services to the provision of outdoor sports facilities, excluding the provision of any indoor sports facilities.
Class 25: *Clothing, all being underwear*	The goods are restricted to those considered underwear, excluding all other types of clothing.

Specifications using 'namely' or 'being' in a manner that does not comply with the requirements of clarity and precision (e.g. *dairy products, namely peanut butter*) jeopardise the scope of protection and will therefore be objected to.

Examples of **non-restrictive use**

Other words or phrases may only point out that certain goods/services are important, and the inclusion of the term does not restrict the list in any way.

Class 29: *Dairy products, in particular cheese and butter*	This includes all dairy products; cheese and butter are probably the focus of the EUTM owner's operation, but not the only goods produced.
Class 41: *Provision of sports facilities, for example outdoor running tracks*	The coverage merely gives an example of one of several possibilities.
Class 25: *Clothing, including underwear*	The coverage extends to all clothing and not just underwear.

Specifications using ‘in particular’, ‘such as’, ‘for example’ or ‘including’ in a manner that does not comply with the requirements of clarity and precision (e.g. *dairy products, in particular peanut butter*) jeopardise the scope of protection, and will therefore be objected to.

For the correct use of restrictive wordings (e.g. ‘excluding’, ‘except’) please refer to the examples listed in paragraph 5.3.2.

4.2.4 Use of the term ‘and/or’

The use of oblique strokes is acceptable in lists of goods and services; the most common example is in the phrase ‘*and/or*’, meaning that both goods or services referred to are covered.

Examples

- *Chemical/biochemical products*
- *Chemical and/or biochemical products*
- *Chemicals for use in industry/science*
- *Chemicals for use in industry and/or science*
- *Import/export agency services.*

4.2.5 Punctuation

The use of correct punctuation is very important in a list of goods and services — almost as important as the words.

The use of commas may serve to separate enumerated items within a broader category or expression. For example, *flour and preparations made from cereals, bread, pastry and confectionery* in Class 30 means that the goods can be or are made from any of those materials, thus also including the rather nonsensical *preparations made from confectionery*. If the meaning of the part of the term after *preparations made from cereals* is nonsensical, the use of a comma after it is inappropriate, and a semicolon should be used instead.

The use of a semicolon means a separation between expressions. For example, *flour and preparations made from cereals; bread, pastry and confectionery* in Class 30. In this example, the terms *bread, pastry and confectionery* must be interpreted as being independent from the other terms.

The separation of terms with incorrect punctuation can lead to changes in meaning and incorrect classification.

Take the example of *computer software for use with textile machinery; agricultural machines* in Class 9. In this list of goods and services, the inclusion of a semicolon means that the term *agricultural machines* must be considered as an independent category of goods. However, *agricultural machines* are proper to Class 7. The term would have to be objected to by proposing the correct classification.

A further example would be *retail services in relation to clothing; footwear; headgear* in Class 35. The use of a semicolon means that the terms *footwear* and *headgear* refer to

separate goods, not included in the retail services. In service classes, the goods listed in relation to the services for which protection is sought should always be separated by commas.

A colon can be used in a list of goods and services to explain or start an enumeration. In an enumeration following a colon, terms should be separated by a comma. An example in Class 9 is *Software for: computers, mobile phones, tablets.*

An expression between brackets is in most cases intended to define more precisely the text preceding the brackets where the latter is ambiguous.

4.2.6 Inclusion of abbreviations and acronyms in lists of goods and services

Abbreviations and acronyms within lists of goods and services should be accepted with caution. Trade marks could have an indefinite life, and the interpretation of an abbreviation could vary over time. However, provided that an abbreviation has only one meaning in relation to the class of goods or services applied for, it can be allowed. The very well-known examples *CD-ROMs* and *DVDs* are acceptable in Class 9. If the abbreviation is well known in the field of activity it will be acceptable. To this end, examiners will carry out an internet search in order to determine whether the abbreviation needs to be expanded into words.

Example

Class 9: *EPROM cards*.

This could be expanded to:

Class 9: *Erasable programmable read-only memory cards*.

or

Class 9: *EPROM [erasable programmable read-only memory] cards*.

4.3 Unacceptable terms

4.3.1 General indications of Nice Classification class headings lacking clarity and precision

In accordance with Article 33(3) EUTMR, general indications included in the class headings of the Nice Classification or other general terms may be used, provided that they comply with the requisite standards of clarity and precision, as set out in Article 33(2) EUTMR.

For the sake of completeness, it is noted that, in accordance with Article 33(5) EUTMR, the use of general terms, including general indications of the class headings of the Nice Classification, will be interpreted as including all goods or services clearly covered by the literal meaning of the indication or term within the context of the class in which

it is applied for. ([9]) The use of such terms or indications will not be interpreted as comprising a claim to goods or services that cannot be understood in this way.

In collaboration with the trade mark offices of the European Union, other (inter)national organisations, offices and various user associations, the Office has established a list of general indications of Nice Classification class headings that are deemed not to be sufficiently clear and precise in accordance with Article 33(2) EUTMR.([10])

The 197 general indications of the Nice class headings in the 2014 version of the 10th Edition of the Nice Classification were examined for the requisites of clarity and precision. Of these, 11 were considered not to have the clarity and precision required to specify the scope of protection that they would give. Consequently, they could not be accepted without further specification. The indications in question are set out below in **bold**.

Class 6: ***Goods of common metal not included in other classes***.

Class 7: ***Machines*** *and machine tools*.

Class 14: *Precious metals and their alloys and* ***goods in precious metals or coated therewith****, not included in other classes*.

Class 16: *Paper, cardboard and* ***goods made from these materials [paper and cardboard]****, not included in other classes*.

Class 17: *Rubber, gutta-percha, gum, asbestos, mica and* ***goods made from these materials [rubber, gutta-percha, gum, asbestos and mica]*** *and not included in other classes*.

Class 18: *Leather and imitations of leather, and* ***goods made of these materials [leather and imitations of leather]*** *and not included in other classes*.

Class 20: ***Goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics***.

Class 37: ***Repair***

Class 37: ***Installation services***

Class 40: ***Treatment of materials***

Class 45: ***Personal and social services rendered by others to meet the needs of individuals.***

The remaining 186 general indications comply with the requisites of clarity and precision and are therefore acceptable for classification purposes.

The reasons why each of the 11 general indications of the Nice class headings were not found clear and precise are described below.

Class 6: ***Goods of common metal not included in other classes***.

9 The Office's former practice, according to which use of all the general indications listed in the class heading of a particular class constituted a claim to all goods or services falling under the class was abandoned in June 2012.

10 See the Common Communication on the Acceptability of Classification Terms and the General Indications of the Nice Class Headings (CP1).

In light of the need for clarity and precision, this term does not provide a clear indication of what goods are covered as it simply states what the goods are made of, and not what the goods are. It covers a wide range of goods that may have very different characteristics and/or purposes, may require very different levels of technical capabilities and know-how to be produced and/or used, and could target different consumers, be sold through different sales channels and therefore relate to different market sectors.

Class 7: ***Machines*** *and machine tools*.

In light of the need for clarity and precision, the term *machines* does not provide a clear indication of what machines are covered. Machines can have different characteristics or different purposes, may require very different levels of technical capabilities and know-how to be produced and/or used, and could target different consumers, be sold through different sales channels and therefore relate to different market sectors.

Class 14: *Precious metals and their alloys and* ***goods in precious metals or coated therewith, not included in other classes***.

In light of the need for clarity and precision, the term *goods in precious metals or coated therewith, not included in other classes* does not provide a clear indication of what goods are covered, as it simply states what the goods are made of or coated with, and not what the goods are. It covers a wide range of goods that may have very different characteristics, may require very different levels of technical capabilities and know-how to be produced, and could target different consumers, be sold through different sales channels and therefore relate to different market sectors.

Class 16: *Paper, cardboard and* ***goods made from these materials, not included in other classes***.

In light of the need for clarity and precision, the term *goods made from these materials [paper and cardboard], not included in other classes* does not provide a clear indication of what goods are covered, as it simply states what the goods are made of, and not what the goods are. It covers a wide range of goods that may have very different characteristics and/or purposes, may require very different levels of technical capabilities and know-how to be produced and/or used, and could target different consumers, be sold through different sales channels and therefore relate to different market sectors.

Class 17: *Rubber, gutta-percha, gum, asbestos, mica and* ***goods made from these materials and not included in other classes****.*

In light of the need for clarity and precision, the term *goods made from these materials [rubber, gutta-percha, gum, asbestos and mica] and not included in other classes* does not provide a clear indication of what goods are covered as it simply states what the goods are made of, and not what the goods are. It covers a wide range of goods that may have very different characteristics and/or purposes, may require very different levels of technical capabilities and know-how to be produced and/or used, and could target different consumers, be sold through different sales channels and therefore relate to different market sectors.

Class 18: *Leather and imitations of leather, and* ***goods made of these materials and not included in other classes***.

In light of the need for clarity and precision, the term *goods made of these materials [leather and imitations of leather] and not included in other classes* does not provide a clear indication of what goods are covered, as it simply states what the goods are made of, and not what the goods are. It covers a wide range of goods that may have very different characteristics and/or purposes, may require very different levels of technical capabilities and know-how to be produced and/or used, and could target different consumers, be sold through different sales channels and therefore relate to different market sectors.

Class 20: ***Goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics***.

In light of the need for clarity and precision, this term does not provide a clear indication of what goods are covered as it simply states what the goods are made of, and not what the goods are. It covers a wide range of goods that may have very different characteristics and/or purposes, may require very different levels of technical capabilities and know-how to be produced and/or used, and could target different consumers, be sold through different sales channels and therefore relate to different market sectors.

Class 37: ***Repair services***

In light of the need for clarity and precision, this term does not provide a clear indication of the services being provided, as it simply states that these are repair services, and not what is to be repaired. As the goods to be repaired may have different characteristics, the repair services will be carried out by service providers with different levels of technical capabilities and know-how, and may relate to different market sectors.

Class 37: ***Installation services***

In light of the need for clarity and precision, this term does not provide a clear indication of the services being provided, as it simply states that these are installation services, without stating what is to be installed. As the goods to be installed may have different characteristics, the installation services will be carried out by service providers with different levels of technical capabilities and know-how, and may relate to different market sectors.

Class 40: ***Treatment of materials***

In light of the need for clarity and precision, this term does not give a clear indication of the services being provided. The nature of the treatment is unclear, as are the materials to be treated. These services cover a wide range of activities performed by different service providers on materials of different characteristics, requiring very different levels of technical capabilities and know-how, and may relate to different market sectors.

Class 45: ***Personal and social services rendered by others to meet the needs of individuals***.

In light of the need for clarity and precision, this term does not give a clear indication of the services being provided. These services cover a wide range of activities performed by different service providers requiring very different levels of skill and know-how, and may relate to different market sectors.

Six of these general indications were deleted from the class headings of the 2016 version of the 10th edition of the Nice Classification, and one more was deleted in the 2023 version of the 12th edition. The remaining indications are set out below in bold:

Class 7: ***Machines***, *machine tools*, *power-operated tools*.

Class 37: ***Installation and repair services***

Class 40: ***Treatment of materials***

EUTM applications that include any of the abovementioned general indications contained in the current or earlier versions or editions of the Nice Classification will be objected to as lacking clarity and precision. The applicant will be asked to make the unacceptable term more specific.

Unacceptable general indications mentioned above can be made clear and precise if the applicant follows the principles set out under paragraph 4.2. The following is a non-exhaustive list of acceptable specifications.

Not a clear and precise term	Example of a clear and precise term
Goods of common metal not included in other classes (Class 6)	*Construction elements of metal* (Class 6) *Building materials of metal* (Class 6)
Machines (Class 7)	*Agricultural machines* (Class 7) *Machines for processing plastics* (Class 7) *Milking machines* (Class 7)
Goods in precious metals or coated therewith (Class 14)	*Works of art of precious metal* (Class 14)
Goods made from paper and cardboard (Class 16)	*Filtering materials of paper* (Class 16)
Goods made from rubber, gutta-percha, gum, asbestos and mica (Class 17)	*Rings of rubber* (Class 17)
Goods made of these materials [leather and imitations of leather] (Class 18)	*Leather straps* (Class 18)

Not a clear and precise term	Example of a clear and precise term
Goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics (Class 20)	*Door fittings, made of plastics* (Class 20) *Figurines of wood* (Class 20)
Repair services (Class 37)	*Shoe repair* (Class 37) *Repair of computer hardware* (Class 37)
Installation services (Class 37)	*Installation of doors and windows* (Class 37) *Installation of burglar alarms* (Class 37)
Treatment of materials (Class 40)	*Treatment of toxic waste* (Class 40) *Air purification* (Class 40)
Personal and social services rendered by others to meet the needs of individuals (Class 45)	*Personal background investigations* (Class 45) *Personal shopping for others* (Class 45) *Adoption agency services* (Class 45)

Unclear or imprecise general indications of services used in combination with unclear or imprecise general indications of goods may be acceptable if a market sector or a specific skill needed to provide such services is clearly distinguished. Unclear or imprecise general indications of goods might be acceptable when applied for together with *repair services*, but not when applied for together with *retail services* if a specific market sector or specific skill needed to provide such services cannot be clearly distinguished. For example, the *repair of leather goods* would be considered sufficiently clear and precise, as the professionals carrying out those repairs would mostly be cobblers, regardless of further characteristics of the goods. However, the *retail of leather goods* would be considered unclear and imprecise since the market sector for the *retail of leather goods* cannot be identified, and will depend on the specific leather articles or types of leather goods concerned. The practice regarding retail services in connection with goods that are considered unclear and imprecise is explained further in the Annex, in 6.59 Retail and wholesale services.

Note that terms lacking clarity and precision cannot be made specific, or acceptable, by the addition of such terms as ‘including’, ‘in particular’, ‘for example’ or ‘such as’, as well as ‘included in this class’ or ‘not included in other classes’. The example *machines, including milking machines* would not be acceptable as it remains unclear and imprecise (see paragraph 4.2.3).

4.3.2 Other terms lacking clarity and precision

The same principles regarding clarity and precision as described under paragraph 4.2 are applicable to all the goods and services listed in an application. Terms that do not provide a clear indication of the goods or services covered should be objected to.

Examples

- *Merchandising articles*
- *Fair-trade goods*
- *Lifestyle accessories*
- *Gift articles*
- *Souvenirs*
- *Collectors' articles*
- *Housewares*
- *Electronic goods* (01/12/2016, T-775/15, Ferli, EU:T:2016:699), *electric/electronic apparatus/instruments*
- *Gadgets (electronic or not)*
- *Hobby articles*
- *Advertising articles*
- *Memorabilia*
- *Wellness goods*
- *Association services.*

All of these must be made more specific as described above, that is to say, by identifying factors such as characteristics, purpose and/or identifiable market sector.

It should be noted that the means by which a service is provided usually does not render a term sufficiently clear and precise. For classification purposes it is mostly irrelevant whether a service is provided online, on the telephone, by means of a catalogue, in a physical shop, or on-site in person.

More examples can be found in the Annex.

4.3.3 The claim for all goods/services in a class or all goods/services of the alphabetical list in a class

If applicants intend to protect all goods or services included in the alphabetical list of a particular class, they must indicate this by listing these goods or services explicitly and individually. The Office encourages the use of TMclass to guide applicants through the search for goods and services by providing them with suggestions for acceptable goods or services or by starting from the more general terms and ending with those that are more specific (see paragraph 3).

Applications are sometimes filed with terms such as 'all goods in Class X', 'all services in Class X', 'all goods/services in Class X', 'all goods/services of the alphabetical list in Class X', either on their own, or together with an acceptable list of goods/services. These terms do not constitute a valid claim within the meaning of Article 33(2) EUTMR because they lack sufficient clarity and precision to determine the extent of the

protection sought. The Office will invite the applicant to provide acceptable terms within a time limit set to that effect. Failure to do so will result in the application being rejected for such unclear and imprecise terms. It may proceed **only** for the acceptable part of the goods/services.

On other occasions, applications are filed merely stating the class number. This does not comply with Article 31(1)(c) EUTMR, whereby a list of the goods or services for which the registration is requested must be given. Consequently, in these cases, in the absence of a list of goods or services in respect of which registration is sought, no filing date will be accorded pursuant to Article 32 EUTMR. The Office will invite the applicant to remedy the deficiency. If the deficiency is remedied within the given time limit, the filing date will become the date on which a list of goods and services has been provided. See the Guidelines,Part B, Examination, Section 2, Formalities, paragraph 4.1.

4.3.4 Reference to other classes within the list

References to other class numbers within a class are not acceptable for classification purposes. For example, the indications (in Class 39) *transport services of all goods in Classes 32 and 33* or (in Class 9) *computer software in the field of services in Classes 41 and 45* are not acceptable as in both cases the terms are considered to be unclear and imprecise and lack legal certainty as to what goods and services are covered. The only way to overcome the objection to these lists of goods and services is for the respective goods of Classes 32 and 33, and services of Classes 41 and 45 to be specified in more detail.

The term 'goods not included in other classes' is not acceptable in service classes because this expression only makes sense in its original goods class.

For example, *transport services of plastic materials for packaging (not included in other classes)* in Class 39 could not be accepted. The mention of (*not included in other classes)* must be deleted so that the term reads *transport services of plastic materials for packaging*.

4.3.5 Trade marks in lists of goods/services

Trade marks may not be used as generic terms or categories of goods. Therefore they will not be accepted as goods or services per se.

Example

Class 9: *Electronic devices for transmission of sound and images; video players; CD players; iPods*.

Since iPod™ is a trade mark, the applicant will be requested to replace it by a synonym such as *a small portable digital audio player for storing data in a variety of formats including MP3*.

Other examples are Caterpillar™ (the correct classification would be *crawler type vehicle*), Discman™ (*portable compact disc player*), Band-Aid™ (*sticking plasters*),

Blu-Ray discs™ (*optical storage discs with enhanced capacity*) or Teflon™ (*non-stick coating based on polytetrafluoroethylene*). This list is not exhaustive. If third parties are concerned about the generic use of a registered trade mark within a list of goods and services of an application, they may file observations to that effect.

The Office will object to the inclusion of such terms and request that they are replaced by a generic term for the goods or services in question.

4.3.6 Other protected rights in lists of goods and services

4.3.6.1 Geographical indications (GIs)

Geographical indications (GIs) cannot be used as generic terms (Article 26(6) Regulation 2024/1143 and Article 40(6) Regulation 2023/2411). Therefore, they will not be accepted as goods per se. The generic use of such terms will be objected to *ex officio* and corrections will be proposed to add GI-related references.

The wording that the Office recommends is '*'[GI name]' (GI) [product type covered by the GI as shown in GIview]*'. Other limitations are, however, acceptable as long as the applicant clearly identifies the GI and the use thereof.

Unacceptable examples

Class 33: *Tequila; champagne*.

Since Tequila and Champagne are GIs, they must be indicated as such. The applicant will be requested to specify these as GIs and show the goods, namely, *'Tequila' (GI) spirit drinks; 'Champagne' (GI) wine*.

GIs protected in the EU can be searched in GIview.

In the same way, if a GI is used and shown in relation to a product authenticated by a non-fungible token (NFT), the GI cannot be used generically. Therefore, *tequila authenticated by an NFT* (Class 33) would be objected to, whereas an acceptable example would be '*Tequila' (GI) spirit drinks authenticated by an NFT* (Class 33).

GIs cannot be used in relation to virtual goods in Class 9 because virtual representations of GI products do not comply with the relevant product specifications, as they are not physical items. Therefore, the GI name must be replaced by the generic name of the type of product. Consequently, *virtual tequila, virtual 'Tequila' (GI)* or *virtual* '*Tequila' (GI) spirit drinks* would be objected to. An acceptable version of these examples would be *virtual spirit drinks* (Class 9).

See the Guidelines 4.4.1 Virtual goods and 4.4.3 Non-fungible tokens.

4.3.6.2 Traditional terms for wine (TTWs)

Traditional terms for wine (TTWs) cannot be used as generic terms (Article 113(3) Regulation (EU) No 1308/2013). Therefore, they will not be accepted as goods per se.

The generic use of such terms will be objected to *ex officio* , and corrections will be proposed to add TTW-related references.

The wording that the Office recommends is '*'[TTW name]' (TTW) wine*'. Other limitations are, however, acceptable, as long as the applicant clearly identifies the TTW and the use thereof.

Unacceptable examples

Class 33: *Amarone; fino*.

Since 'amarone' and 'fino' are TTWs, they must be indicated as such. The applicant will be requested to specify these as TTWs and show the goods, namely, *'amarone' (TTW) wine*; *'fino' (TTW) wine*.

TTWs in the EU can be searched in the eAmbrosia database.

4.3.7 Inclusion of the terms *parts and fittings*; *components* and *accessories* in lists of goods and services

The terms *parts and fittings*; *components* and *accessories* are, on their own or in combination with each other, neither clear nor precise. Accordingly they cannot be classified properly. Each of the terms requires further qualification to become acceptable in its proper class. Such terms could be made acceptable by adding identifying factors such as characteristics, purpose and/or identifiable market sector. It should be noted that the protection afforded by such indications will be interpreted as being limited by the scope of the class. Parts and fittings, components or accessories not belonging to that class will not be understood as covered by such indications.

Examples of acceptable terms

- *Parts and fittings for land vehicles* is acceptable in Class 12;
- *Building components of wood* is acceptable in Class 19;
- *Musical accessories* is acceptable in Class 15.

In all cases the requirements of clarity and precision must also be met.

Adding the expression *parts and fittings for all the aforementioned goods* at the end of a list will be accepted as long as it can reasonably be applied to at least one of the goods in that class. In such a case, however, the parts and fittings will be considered to cover only the goods for which they can reasonably be pertinent. For example, if the wording of Class 9 reads *computers; mobile phones; software; parts and fittings for all the aforementioned goods*, then the parts and fittings can only concern *computers* and *mobiles phones*. As *software* relates to goods which are virtual, it is not seen as having *parts and fittings*.

Examples of what will **not** be accepted

- Class 5 — *Pharmaceutical preparations; parts and fittings for all the aforementioned goods.*
- Class 16 — *Paper and cardboard; accessories for all the aforementioned goods.*
- Class 29 — *Meat, fish, poultry and game; components of all the aforementioned goods.*

4.3.8 Use of indefinite qualifiers

The use of qualifiers such as ‘the like’, ‘ancillary’, ‘associated goods’, ‘and related goods’ or ‘etc.’ in a list of goods or services is unacceptable, since they do not comply with the requirements of clarity and precision (see paragraph 4.2).

4.4 Virtual goods, services in virtual environments, NFTs, cryptocurrencies and crypto assets

4.4.1 Virtual goods

Virtual goods refers to non-physical items intended to be used in the course of trade in online or virtual environments. They could, for instance:

1. merely depict real-world goods (e.g. *virtual fruit* – a digital image of a piece of fruit to make a supermarket in an online game appear more realistic);
2. depict and emulate the functions of real-world goods (e.g. *virtual fruit* – a digital image of a piece of fruit that is somehow ‘eaten’ by an avatar);
3. represent objects with no equivalent in the real world (e.g. *virtual time machines*).

The term *virtual goods* by itself lacks clarity and precision and will not be accepted for classification purposes unless the goods or type of goods are specified (e.g. *virtual goods, namely, virtual clothing*). The same principles apply as those for specifying the subject matter of retail services in Class 35. Thus, it is sufficient to indicate the type of goods instead of listing individual goods (e.g. instead of *virtual lipstick*, *virtual mascara*, *virtual eyeliner,* the applicant can simply apply for *virtual cosmetics*). This avoids long lists.

Irrespective of the type of goods they denote, specific virtual goods in essence consist of digital content, and are therefore proper to Class 9, and not to the class of the corresponding real-world goods. For instance, *downloadable virtual clothing* belongs to Class 9, and not to Class 25[11]. Moreover, for classification purposes, although most virtual goods emulate the core characteristics or functions of their real-world counterparts, this does not mean that they have the same nature, function or purpose. *Virtual clothing* in Class 9 may be used to ‘dress’ an avatar (applying a digital image of clothing to it) but it does not have the same purpose as real-life clothing in Class 25 (i.e. garments normally used by people to cover their bodies).

The requirements of clarity and precision do not require that virtual goods (e.g. *virtual clothing*) specify the digital form in which they appear (e.g. digital files, downloadable software etc.). This level of detail is not needed for the competent authorities and economic operators to comprehend the goods in question. Therefore, terms without this specification will be accepted.

11 *Downloadable virtual clothing* is a term included in Class 9 of the 2024 version of the alphabetical list of the 12th edition of the Nice Classification.

For virtual goods related to geographical indications, see the Guidelines 4.3.6. Geographical indications in lists of goods and services.

4.4.2 Services in virtual environments

Services in virtual environments could cover, for instance:

1. real-world services that are provided via online or virtual environments;
2. services specifically developed for a virtual environment that emulate a real-world service online or in a virtual environment;
3. services specifically developed for a virtual environment without counterparts in the real world.

Services in virtual environments will be classified in line with the established principles of classification, in accordance with the underlying nature of the service, considering its impact in the real world.

This is in line with the General Remarks of the Nice Classification, which state that the *means by which a service is rendered* does not in principle have any impact on the classification of the services, unless the purpose or result of a service changes due to its means or place of delivery.

Therefore, the mere fact that real-world services are provided through a virtual environment does not affect how they are classified, because the means of provision does not change the purpose or result of the underlying service.

Examples:

- *Financial consultancy* is proper to Class 36, regardless of whether the services are rendered in person, by telephone, online or in a virtual environment. So *financial consultancy provided through a virtual environment* belongs to Class 36.
- *Education provided through a virtual environment* belongs to Class 41.

For services that emulate a real-world service in a virtual environment, the same principle applies. The classification of the service will be determined by the underlying nature of the service itself, considering its impact in the real world. However, the fact that a virtual service emulates a real-word service does not mean that, for classification purposes, it would belong to the same type of activity as the real-world service.

Examples:

- Transport services in Class 39 involve the moving of goods or people from one physical place to another. Services that convey an avatar from one location to another in a virtual environment may emulate transport services, but they do not have the same result or purpose in the real world. Therefore, *simulated travel services provided in virtual environments for entertainment purposes* or *virtual transport services for gaming purposes* would belong to Class 41.
- *Provision of virtual food and drink* cannot be proper to Class 43. In the real world, these services do not nourish people as the food is specified as being virtual.

Therefore, in this case, *provision of virtual food and drink for entertainment purposes* would belong to Class 41.

In case of doubt as to the type of activity of the service provided in a virtual environment, the Office will ask for clarification from the applicant.

4.4.3 Non-fungible tokens (NFTs)

Non-fungible tokens (NFTs) use blockchain technology to create a unique, non-fungible digital asset that can be owned and traded. The blockchain serves as an immutable ledger of the ownership of the asset protected by the NFT.

NFTs are used as unique digital certificates registered in a blockchain and can be used to record an interest in an item (e.g. the alleged ownership of a digital artwork or collectible). Like conventional certificates, NFTs in this form relate to something other than themselves, which is often digital goods but can also be physical goods.

Therefore, the term 'NFTs' as such in Class 9 lacks clarity and precision, and cannot be accepted for classification. The same is true in Class 9 for the term *assets authenticated by NFTs*. In both cases it will be necessary to specify the type of asset authenticated by the NFT.

NFTs in relation to goods

Terms referring to NFTs will be classified according to what the NFT is linked to. This means that *digital works of art authenticated by NFTs* will belong to Class 9. Likewise, *virtual handbags authenticated by NFTs* will belong to Class 9. On the other hand, *handbags authenticated by NFTs* will belong to Class 18 because the applicant's intention is understood to apply to *physical* handbags authenticated by NFTs.

For geographical indication products authenticated by NFTs, see 4.3.6. Geographical indications in lists of goods and services.

NFTs in relation to services

If NFTs are used for services, the established principle will apply that it is the nature of the underlying service that determines the classification.

It should be clear from the wording whether the applicant's intention is to apply for services that have as their subject matter (i) assets authenticated by NFTs or (ii) NFTs as such. In case of doubt, the Office may ask for clarification.

- **Services that have as their subject matter assets authenticated by NFTs**
  - The linked service is clear and precise

    Certain services may well meet the clarity and precision requirements, but ambiguity can arise if the term 'NFTs' is added. This ambiguity arises because, without further precision, the reference to NFTs implies that the services relate to bare 'digital certificates'. This does not make sense commercially. The ambiguity is resolved if terms such as *goods authenticated by NFTs* are used.

    Examples:

Class	Unacceptable	Acceptable
35	*providing a marketplace for trading NFTs*	*providing a marketplace for trading goods authenticated by NFTs*
36	*brokerage of NFTs*	*brokerage of goods authenticated by NFTs*

- The linked service on its own lacks clarity and precision

  The use of the term 'NFTs' with services that themselves lack clarity and precision results in ambiguity. For example, *retail services of NFTs* lacks clarity and precision given the overly broad range of goods to which those services might relate. This means that the goods or type of goods to which the NFT relates will need to be specified.

  Examples:

Class	Unacceptable	Acceptable
35	*retail services of NFTs* *retail services of assets authenticated by NFTs*	*retail services of virtual clothing authenticated by NFTs*

- **Services which have as their subject matter an *NFT as such***

  If the relevant services properly relate to NFTs as a mere 'digital certificate', the use of the term 'NFTs' on its own makes sense and therefore is acceptable. This would be the case for services of a technological nature where the nature and purpose of the services remain the same irrespective of the asset certified by the NFT.
- Acceptable examples:
  - *Technological services relating to NFTs.* These are technical IT services related to the development and functioning of NFTs and the certified assets can vary.
  - *Promotion of NFT technologies* in Class 35. It is understood as activities promoting the usage of NFT technologies irrespective of the assets to be certified.
  - *Education relating to NFT technologies* in Class 41. It is understood as training on the development and functioning of NFTs.
  - *Minting of NFTs* in Class 42.

4.4.4 Cryptocurrencies and crypto assets

In Class 9, the terms *cryptocurrencies* and *crypto assets* will not be accepted, as the nature of the goods is not clear and precise. Software, applications and hardware to manage cryptocurrencies or crypto assets will, however, be accepted in Class 9,

for example, *downloadable computer software for managing crypto asset transactions using blockchain technology* or *cryptocurrency hardware wallets*.

In the same way, the terms *cryptocurrency services* or *crypto asset services* as such will not be acceptable in Class 36. The nature of the services to be provided is not clear and precise and should be further specified as the terms could cover numerous services.

Acceptable examples

- Class 36: *Electronic transfer of cryptocurrency* or *financial exchange of cryptocurrency*.
- Class 42: *Electronic storage of cryptocurrency* or *mining of cryptocurrency*.

5 Examination Procedure

5.1 Parallel applications

While the Office will always strive for consistency, the fact that a wrongly classified list of goods and services has previously been accepted does not have to lead to the same list being accepted in any subsequent applications. See the Guidelines, Part A, General Rules, Section 2, General Principles to be Respected in the Proceedings, paragraph 3.

5.2 Incorrectly classified terms and objections

Where the application contains goods or services that obviously belong to a different class, the Office may reclassify them to their proper class without issuing an objection, provided that the application already covers the class to which those goods or services belong. Where this occurs, the Office will inform the applicant and the applicant may submit observations. In other cases, if the Office considers that there is a need to amend the list of goods and services according to its practice, it will issue a reasoned objection. The Office may propose how the items should be classified and provide analogous examples from the HDB. The objection should take into account the class applied for, and the natural and usual meaning of the term.

Examples

- **Natural and usual meaning is clear and class number gives no context (obviously incorrect)**
  Where the applicant files for the term *footwear* in Class 3 and the original application *does not* contain Class 25, the examiner will propose to transfer this term to Class 25, even if Class 25 was not listed in the original application, since the natural and usual meaning of this term would be coverings for human feet. If Class 25 was contained in the original application, the Office will reclassify the term footwear and inform the applicant, setting a deadline to submit observations.

- **Natural and usual meaning is clear, but class number gives a different context**
  Where the applicant files for the term *footwear* in Class 9, they will be asked to specify the nature or purpose of these goods within the class (protective footwear).
- **Natural and usual meaning is unclear, but class number gives a particular context**

  If the applicant files for the term *machines* in Class 7, they should be asked to define the nature or purpose of these goods, as this is not clear from the natural and usual meaning of the term. As the original meaning of the term is unclear, but the class number gives additional information, the term can only be specified within the scope of that class. In such a case, a further specification **only in the class applied for** can be accepted, for instance:

  Class 7: *Washing machines; machines for shaping metal*.
- **Natural and usual meaning is unclear and class number gives no context**

  If the applicant files for the term *machines* in Class 25, they should be asked to define the nature or purpose of these goods, as this is not clear from the natural and usual meaning or from the class applied for. In such a case, a further specification in all applicable classes can be accepted, for instance:

  Class 7: *Washing machines; machines for shaping metal*.

  Class 9: *Photocopy machines*.

  Class 11: *Bread-making machines; air purification machines*.

  As the original meaning of the term was unclear, and the class number gives no additional information, the original scope could not be defined.

Any specification provided by the applicant must not result in the broadening of the original scope of the goods or services originally applied for (Article 49(2) EUTMR). This is not the case when the term being specified can be seen as covered by the natural and usual meaning of broader terms already existing in the original application.

Any additional information applicable to a term that needs to be transferred to a different class should also be taken into account, not only in order to prevent a broadening of the original scope, but also to avoid narrowing it down.

For example, if the original list of goods in Class 12 reads *cars; car radios; parts and fittings for all the aforementioned goods*, the applicant will be requested to transfer the term *car radios* to Class 9, even if Class 9 was not listed in the original application. Such a transfer should also include the phrase *parts and fittings for all the aforementioned goods*.

The list of goods should therefore be amended as follows:

Class 9: *Car radios; parts and fittings for all the aforementioned goods*.

Class 12: *Cars; parts and fittings for all the aforementioned goods.*

For example, if the original list of services in Class 43 reads *travel reservation services; hotel reservation services; information in relation to all the aforementioned services*, as *travel reservation services* are proper to Class 39, the applicant will be requested to transfer the term to Class 39, even if Class 39 was not listed in the original

application. However, this transfer should also include the *information in relation to all the aforementioned services*.

The list of services should therefore be amended as follows:

Class 39: *Travel reservation services; information in relation to all the aforementioned services*.

Class 43: *Hotel reservation services; information in relation to all the aforementioned services.*

The initial time limit of 2 months allowed for remedying the deficiencies can only be extended once. No further extensions will be granted unless exceptional circumstances apply (Article 101(4) EUTMR). See also the Guidelines Part A, General Rules, Section 8, *Restitutio in Integrum* .

The Office will send a letter informing the applicant of the list of goods and services as accepted following the amendments.

If the applicant does not remedy the deficiency(ies), the application will be rejected for the goods or services for which an objection has been made.

If the applicant has submitted a list of goods and services that is not grouped under class numbers or classified at all, an objection under Article 33 EUTMR will be raised, requesting the applicant to group the goods and services in specific classes.

5.3 Restriction and amendment of a list of goods and services

Before registration:

Article 49(1) and (2) EUTMR allows for the restriction or amendment of an application before registration, provided that 'such a correction does not substantially change the trade mark or extend the list of goods and services'.

Under Article 49(1) EUTMR, the applicant may choose to **restrict** the list of goods and services in order to clarify the scope of protection, to overcome an objection under absolute grounds, to further specify unclear and imprecise indications, or to settle a dispute. The restriction can be effected by deleting a term, further specifying a broad term, or a subcategory of such a term, or excluding terms or subcategories of goods or services.

Amendments to the indication of goods and services before registration, under Article 49(2) EUTMR, can also be seen as a fine-tuning of the list of goods and services, and therefore can change the wording without necessarily limiting the scope of the application or changing the nature of the goods and services. However, any such fine-tuning may never broaden the scope of the application.

After registration:

Restrictions made post-registration, however, must comply with the requirements of Article 57 EUTMR on partial surrender. Once the mark has been entered in the Register, changes to the list of goods and services can only seek to limit the scope of

protection, and will be refused if no actual restriction is made. Under no circumstances may the change widen the list of goods and services.

5.3.1 Rules governing restrictions and amendments

A restriction or amendment of the list of goods and services in the context of Article 49 EUTMR takes effect when it is received by the Office and is therefore **formally binding**. This means that the goods or services excluded through a restriction cannot be reinserted into the list of goods and services at a later stage. In order for a request for restriction to be withdrawn, a corresponding declaration must reach the Office on the same day the request for restriction was received. Withdrawal of a restriction received after this date will be dismissed.

Certain **general criteria** must be respected at all times for a restriction or amendment to be acceptable.

- The request must be **explicit**. The absence of a reply to an official notification will never be considered an explicit request for restriction. Where a restriction is required by the Office, silence on the part of the applicant can, however, lead to the refusal of the terms objected to, or, eventually, to the refusal of the application in its entirety.
- The request must be **unconditional**. For instance, if the applicant only wants to restrict the application in return for a fee refund, the request will be considered inadmissible and the applicant informed accordingly. Otherwise, in this regard, similar rules to those for withdrawals apply (see the Guidelines, Part B, Examination, Section 1, Proceedings, paragraph 5.1.2).
- A list of goods and services should still be **clear and precise** after a restriction or amendment in order to comply with the requirements of Article 33 EUTMR, and must **not go against legal certainty**.

In any request for a restriction or amendment, the goods/services to be restricted or amended must be clearly indicated (see the Guidelines, Part B, Examination, Section 1, Proceedings, paragraph 5.2.1).

If the original list of goods and services of an application contains a limiting or amending phrase, these rules will also be applicable as this list must be clear and precise.

BEST PRACTICE: If a party requests a restriction or amendment of a list of goods/ services to avoid conflicts, such as in the course of *inter partes* proceedings, the parties should carefully agree on the wordings and ensure they are in line with the rules outlined above. This should be done before the request is submitted to the Office. This is due to the limited possibilities that the Office has to assist in such matters. Parties could also consider a co-existence agreement as an alternative. It might be more suitable than attempting to include such an agreement in the list of goods and services.

5.3.2 Wording of restrictions

A restriction should be understood as a clear limitation of the scope of protection.

A restriction can in principle follow one or several of the following approaches, provided they do not contradict each other.

1. **Deletion** of an existing term from the list.
2. **Specification** of a broader term in the list to specific goods or services covered by the broad term, or to one or several subcategories of this term.
3. **Exclusion** of specific goods or services from a broad term, or of one or more subcategories from such a term in the list.

Examples of valid restrictions (in Class 16):

1. **Deletion**: *newspapers; magazines; books* is restricted to read *newspapers; magazines*; the term *books* is completely deleted from the list.
2. **Specification**: *newspapers; magazines; books* is restricted to read *newspapers; magazines; books, namely dictionaries* or *newspapers; magazines; dictionaries; cookbooks*; the term *books* has been specified to cover only the narrow subcategory of books defined as *dictionaries,* or replaced by the subcategories *dictionaries* and *cookbooks*.
3. **Exclusion**: *newspapers; magazines; books* is restricted to read *newspapers; magazines; books, except dictionaries* or *newspapers; magazines; books, excluding dictionaries and cookbooks*; the coverage of the term *books* remains fairly broad while at the same time clearly excludes the subcategory of d*ictionaries*, or both *dictionaries* and *cookbooks* (from the second wording).

Examples of **contradictory** restrictions (in Class 16), which should therefore be refused:

- *Newspapers; magazines; books* requested to read *newspapers; magazines; all the aforementioned goods except dictionaries* or *newspapers; magazines; all the aforementioned goods being dictionaries*; these restrictions cannot be accepted as, by excluding the broad category of *books*, the remaining goods to which the restrictions refer no longer contain the subcategory of *dictionaries*.
- *Newspapers; magazines; books, namely dictionaries* requested to read *newspapers; magazines; books, namely dictionaries; all the aforementioned goods except cookbooks*; this restriction cannot be granted as with the specification of the broader category of *books*, the remaining goods to which the restriction could refer, that is to say, *dictionaries,* or even *newspapers* and *magazines,* no longer contain the subcategory of *cookbooks* — or are not even considered to be *books* for that matter, as in the latter case of *newspapers* and *magazines*.

A restriction can result in the deletion of an entire class or, on the contrary, in entering a longer, further specified list of goods and services than what was originally applied for. *Newspapers; magazines; books* in Class 16 could, for instance, be restricted to read *newspapers; magazines; books, namely dictionaries, cookbooks, biographies, poetry, fairy tales and philosophy books*.

Furthermore, according to the criteria mentioned under paragraph 5.3.1, the following examples represent acceptable and unacceptable restriction scenarios:

- In order to be able to restrict them, the goods or services need to be **covered by the current list of goods and services** in the class applied for.

Examples of **acceptable** restrictions:

Class 16: *Books, namely dictionaries;*

Class 25: *Footwear, only being flip-flops.*

Examples of **unacceptable** restrictions concerning different classes:

Class 5: *Diagnostic preparations, all for scientific use;*

Class 7: *Milling machines, only for dental purposes.*

Although *diagnostic preparations* can be found both in Class 1 and Class 5, Class 5 would only cover those for medical or veterinary purposes. *Diagnostic preparations for scientific use* are proper to Class 1 and therefore cannot be included in Class 5.

Similarly, although *milling machines* could indeed also be used by dental technicians, such goods are not proper to Class 7 but to Class 10. Therefore, it is impossible to include them in Class 7, as they are not proper to that class.

Example of an **unacceptable** restriction within the same class:

Class 16: *Newspapers; magazines; books.*

Restriction request: *Newspapers; magazines; books; all the aforementioned goods except pencils.*

In this case, even if *pencils* were proper to the same class, the exclusion of a term that is clearly not covered by the original list of goods and services is nonsensical, and will therefore be objected to.

5.3.2.1 References to trade marks

Generic **references to trade marks** will be objected to.

Example of an **unacceptable** restriction:

Class 9: *Apparatus for the reproduction of sound, namely iPods*.

For further guidance on the use of trade marks in lists of goods and services, see paragraph 4.3.5.

5.3.2.2 Territorial restrictions

Territorial restrictions contradicting the unitary nature of an EUTM are not allowed.

Example of an **unacceptable** request:

Class 7: *Washing machines, only for sale in France.*

This example would be in contradiction to the principle of free movement of goods and uniform protection throughout the entire area of the European Union referred to in Article 28 of the Treaty on the Functioning of the European Union.

Territorial amendments that do not change the scope of protection, for example, *clothing made in Vietnam*, may be acceptable. See also paragraph 5.3.3.1 Amendments with territorial references.

Restrictions concerning the **origin** of goods are, in principle, acceptable, and, under certain circumstances, such as in relation to geographical indications (GIs), might even be necessary. For further guidance on restrictions required on the grounds of Article 7(1)(j) to (l) EUTMR, see the Guidelines, Part B, Examination, Section 4, Absolute Grounds for Refusal, and on GIs in lists of goods and services, see paragraph 4.3.6.

5.3.2.3 Ambiguity due to regulations

Restrictions that are **ambiguous** regarding the different national regulatory regimes across the European Union will not be accepted.

Example of an **unacceptable** restriction:

Class 5: *Medicines, only on prescription.*

This example would be considered to go against the judgment of 08/11/2013, T-536/10, Premeno, EU:T:2013:586. In particular, the criterion mentioned cannot be accepted due to the lack of uniform rules governing sales of medicines requiring prescription within the EU, as explained in paragraphs 31-32 and 47 of said judgment.

5.3.2.4 Clarity and precision

Restrictions must be **clear and precise**.

It should be clear which goods or services are excluded by the restriction and which will remain in the list of goods and services. Restrictions that appear completely nonsensical within the context of the current list of goods and services will not be allowed.

Examples of **unacceptable** nonsensical restrictions:

Class 16: *Typewriters, only related to financial services*.

Where there is no possibility that the proposed limited use can be assured on the market, or where the proposed remaining scope of protection is blurred by a limitation that cannot be clearly linked to an existing or a potential market subcategory of the goods or services, the Office will raise an objection.

Example of an **unacceptable** restriction where the goods do **not possess such characteristics**:

Class 31: *Oranges, except smart oranges*.

The fresh fruit listed in the original indication will not cover any types of smart goods. Emphasising this fact by submitting such a disclaimer will not add relevant information to the term, and therefore has no effect on the current scope of protection.

Examples of **unacceptable** restrictions where the **remaining scope of protection** cannot be exactly determined:

Class 7: *Machines, in particular bulldozers*.

An unclear and imprecise term is not clarified or specified by simply mentioning an example of what it could cover; the term *machines* lacks clarity and precision, and merely giving examples of what this broad term may cover does not make it acceptable.

Using the expressions *'including'*, *'in particular'*, *'for example'* or *'such as'*, as well as *'included in this class'* or *'not included in other classes'*, **does not constitute a valid restriction** or specification of the preceding goods or services. For further information see paragraph 4.2.3.

5.3.2.5 Subjectivity

Restrictions that involve **subjective characteristics** will not be accepted.

Examples of **unacceptable** restrictions:

Class 12: *Luxury cars*

Class 29: *Tasty fruit*

Class 33: *Expensive wine.*

5.3.2.6 Targeted public

Restrictions specifying or excluding a part of the public can only be accepted if they are **relevant** to the goods or services in question, and if the scope of protection remains **clear and precise**.

Examples of **acceptable** restrictions:

Class 25: *Clothing, except clothing for children*

Class 41: *Education for the visually impaired.*

Examples of **unacceptable** restrictions:

Class 28: *Roller skates, exclusively designed for surfers*

Class 45: *Legal services, not provided to hairdressers*.

5.3.2.7 Intended use or purpose

Restrictions asking to specify or exclude the intended use or purpose of the goods or services can only be accepted if they are **relevant** to the goods or services in question and change their nature, and if the scope of protection remains **clear and precise**.

Examples of **acceptable** restrictions:

Class 9: *Operating systems, except operating systems for mobile phones*

Class 39: *Collection of domestic waste for recycling purposes*.

Examples of **unacceptable** restrictions:

Class 16: *Books, only for use with lamps*

Class 42: *Scientific research services, not for the purpose of social networking*.

5.3.2.8 Restrictions specifying subject matter

Restrictions specifying or excluding subject matter can only be accepted if they are **relevant** to the goods or services in question and change their nature, and if the scope of protection remains **clear and precise**. This is in principle only possible for goods or services that can have content. Previous comments on the generic use of registered **trade marks** in the description of goods or services also apply.

Examples of **acceptable** restrictions:

Class 9: *CDs, recorded with music*

Class 9: *MP3 files, all containing jazz*

Class 16: *Printed comics, all related to science fiction*

Class 41: *Entertainment conventions, relating to role-playing games*

Class 41: *Musical concert services for the music of Beethoven*.

5.3.3 Wording of amendments

An amendment is seen as a means to exemplify some goods or services, without changing the scope of protection or affecting the nature of the goods or services.

An amendment can follow one or several of the following approaches, provided they do not contradict each other:

1. **exemplifying items already covered** by the current scope;
2. **removal of items still covered** by the remaining scope;
3. **specification** of a **characteristic**;
4. **exclusion** of a **characteristic**.

Examples of valid amendments (in Class 30):

1. **Inclusion of items already covered**: *Sweets, in particular flavoured with strawberry and apricot flavour*. Since the scope of protection is *sweets* in general, highlighting possible characteristics by introducing some examples does not change the initial scope of protection.
2. **Removal of items still covered**: *Sweets, in particular flavoured with strawberry*. Despite deleting the example from the wording, it will implicitly remain covered by the broader term – the scope of protection remains the same.
3. **Specification**: *Sweets flavoured with strawberry*. Since strawberry-flavoured sweets are not a recognisable subcategory of confectionery nor a specific market sector, and since the description of the characteristics of sweets will not change the nature of these goods, the specification will be understood as an amendment.
4. **Exclusion**: *Sweets, not flavoured with strawberry*. Similarly, since strawberry-flavoured sweets are not a recognisable subcategory of confectionery nor a specific

market sector, and since excluding some characteristics of sweets will not change the nature of these goods, the exclusion will be understood as an amendment.

An amendment must be **clear and precise** in order to be acceptable.

If excluding specific characteristics does not allow the scope of protection of the remaining goods or services to be understood with clarity and precision, the exclusion must be rejected.

Amendments specifying subcategories that may not be contained within the relevant class will be dealt with as follows.

Examples of **acceptable** amendments:

Class 5: *Diagnostic preparations, except for scientific use*.

Although *diagnostic preparations* can be found both in Class 1 and Class 5, Class 5 would only cover those for medical or veterinary purposes. *Diagnostic preparations for scientific use* would be proper to Class 1. The exclusion of the subcategory only clarifies the scope of the goods in Class 5. Even if this would not be a restriction, as it does not change the scope of protection, it can be accepted as an amendment as it exemplifies what is not covered.

Class 7: *Milling machines, except for dental purposes*.

Similarly, although *milling machines* could indeed also be used by dental technicians, such goods would not be proper to Class 7 but instead would be proper to Class 10. The exclusion of the subcategory only clarifies the scope of the goods in Class 7. Even if this would not be a restriction, as it does not change the scope of protection, it can be accepted as an amendment as it exemplifies what is not covered.

Example of **unacceptable** amendments:

Class 5: *Diagnostic preparations, except for medical use.*

All *diagnostic preparations* in Class 5 would be specifically for medical use; the exclusion of this use would therefore be illogical and would not allow for a clear understanding of what may be covered.

5.3.3.1 Amendments with territorial references

Amendments relating to the **origin** of goods are, in principle, acceptable.

Example of an **acceptable** amendment indicating origin:

Class 25: *Clothing made in Vietnam.*

Such amendments are acceptable from the perspective of the examination of classification, as they do not broaden the scope of protection. However, the application may become subject to other objections (e.g. under Article 7(1)(g) EUTMR).

5.3.3.2 Amendments specifying theme

Amendments specifying or excluding theme can only be accepted if they are **relevant** to the goods or services in question, and if the scope of protection remains **clear and precise**. This is in principle only possible for goods or services which do not have content. See also paragraph 5.3.2.8 Restrictions specifying subject matter.

Examples of **acceptable** amendments:

Class 25: *T-shirts, bearing the image of Marilyn Monroe*

Class 16: *Pen cases with pictures of cartoon characters*

Class 21: *Mugs, showing pictures of Paris*.

5.3.4 Influence of punctuation on restrictions and amendments

Punctuation also plays an important role in determining the scope of a restriction or amendment, as explained in paragraph 4.2.5. This is especially important in connection with formulations such as *'all the aforementioned goods except for use in connection with […]'* or *'the aforementioned services exclusively related to […]'*:

- Thus, a restriction in Class 9 reading *operating systems; text processing applications; games software; all the aforementioned goods for the sole use with tablet computers* will be interpreted as intending to **limit all these goods, equally due to the use of a semicolon** separating the specification from the rest of the list.
- However, a restriction in Class 9 reading *operating systems; text processing applications; games software, all the aforementioned goods for the sole use with tablet computers* will be interpreted as limiting only the use of games software, since, if **separated with a comma, the specification merely involves the last preceding term** delimited by a semicolon.

A request to add *'all the aforementioned goods, excluding […]'* or *'all the previously mentioned services, only with regard to […]'* at the end of the specification within a class and separated by a semicolon will be interpreted as referring only to those preceding goods or services to which such an exclusion can reasonably apply, and will therefore be accepted as long as it can reasonably be applied to at least one good or service it refers to in that class. At the same time the criteria mentioned under paragraph 5.3.1 need to be observed.

5.3.5 Provisions for implementation

Should one part of a restriction or an amendment request be acceptable, and another not, the restriction will be objected to in its entirety. The Office will inform the applicant and set a time limit of 2 months for remedying deficiencies. If the deficiencies are not remedied within the given time limit, the restriction or amendment request will be refused in its entirety, and the proceedings will then continue on the basis of the original list of goods and services.

For information on the language of the request, see the Guidelines, Part B, Examination, Section 1, Proceedings, paragraphs 5 and 5.1.1.

5.3.6 Interpretation going beyond the general criteria

Restrictions and amendments need to be taken into account in the context of the proceedings in which they are requested.

Depending on the stage of proceedings, various additional principles and rules based on specific case-law might need to be followed.

For more detailed information on different proceedings, each respective part of the Guidelines should be consulted as appropriate – Part B, Examination, Section 4, Absolute Grounds for Refusal, Chapter 10, Trade marks in Conflict with Geographical Indications (Article 7(1)(j) EUTMR); Part C, Opposition, Section 1, Opposition Proceedings, and Section 2, Double Identity and Likelihood of Confusion, Chapter 1, General Principles; Part E: Register Operations, Section 1, Changes in a Registration, and Section 2: Conversion; and Part M, International Marks.

5.4 Addition of classes

Under the provisions of Article 49(2) EUTMR, it is possible to add a class or classes to an application, but only where the goods or services detailed in the original application were clearly included in the wrong class or when the goods or services have been clarified and need to be classified in other class(es).

For example, the original list of goods in Class 32 reads *non-alcoholic beverages including mineral water, fruit juices and tea.*

Since the natural class for *tea* is Class 30, the applicant will be requested to transfer the term to Class 30, even if this class was not listed in the original application. If the applicant agrees, the application will then cover these goods in Classes 30 and 32.

When transferring a term from one class to another, the scope of protection originally applied for also needs to be taken into account. In the example above, transferring *tea* to Class 5 (as *medicinal tea*) would not be possible as this would mean an unacceptable broadening of the original scope of protection. The original list of goods in Class 32 only includes *non-alcoholic beverages* without medicinal properties, so these goods do not therefore cover *medicinal tea*.

When classes are added, additional fees may be payable and the applicant must be informed accordingly.

5.5 Timing of objections

Classification objections should be raised as early as possible during the examination process, before publishing the application. As a general rule, it is not Office practice to reassess the classification of an application after publication.

There are, however, occasions when raising a late objection is justified in order to avoid manifest errors of law or assessment, such as when the error is clearly against the provisions of Article 33 EUTMR and could prevent competent authorities or economic operators from identifying competition/determining the exact scope of protection.

Thus, in accordance with Article 44(3) EUTMR, where the publication of the application contains an error attributable to the Office, the Office will correct the error and publish the correction of its own motion or at the request of the applicant.

Article 45 EUTMR, Article 46(2) EUTMR and Articles 2 to 10 EUTMDR apply *mutatis mutandis* where the correction concerns the list of goods or services of the mark.

6 Annex

6.1 Introduction

When classifying goods and services, the general principles of the Nice Classification must be applied.

The purpose of this Annex is to clarify the classification of certain problematic terms. It also provides notes on classification practice (including words or phrases that should not be used).

The Office's classification database, the HDB, is available through TMclass at http://tmclass.tmdn.org.

6.2 Accessories, components and parts and fittings for vehicles

If the list reads *vehicles; cars; parts, fittings, components and accessories for all the aforementioned goods* in Class 12, it will be accepted. However, parts, fittings, components and accessories for vehicles and cars that are not proper to Class 12, such as, for instance, *car air fresheners* (Class 5), *aircraft engines* (Class 7), *bicycle helmets* (Class 9), *car radios* (Class 9), *furniture for caravans* (Class 20), *car mats* (Class 27), will not be covered by that specification. If protection is sought for parts, fittings, components and accessories for vehicles and cars that are not proper to Class 12, these goods need to be specified separately, and applied for in the proper class or classes.

The terms *parts, fittings, components and accessories* may be accepted in relation to services as long as there is a clearly recognisable market sector for that specification. For instance, if the list reads *retail of **cars**, and parts, fittings, components and accessories* therefor in Class 35, or *retail of **bicycles**, and parts, fittings, components and accessories* therefor in Class 35, it will be accepted, since these specific sectors are well defined on the market.

See also: Inclusion of the terms parts and fittings, components and accessories in lists of goods and services

6.3 Advertising services

In principle, advertising services belong to Class 35. The main entries on advertising services in the list of services in the Nice Classification are:

- *advertising*
- *radio advertising*
- *radio commercials*

- *television advertising*
- *television commercials*
- *layout services for advertising purposes*
- *publication of publicity texts*
- *production of advertising films.*

These entries cover the design of advertising material and production of commercials for all kinds of media, as they are services that will be provided by advertising agencies.

6.4 Air freshening and perfuming preparations

See 6.49 Perfuming and air freshening preparations on page 365.

6.5 Artifical intelligence apparatus and equipment

The terms *artificial intelligence apparatus* and *artificial intelligence equipment* will not be accepted for classification purposes as they lack clarity and precision, and the type of goods would have to be specified.

Goods which may function using artificial intelligence will be classified according to their primary function or purpose, and not because they incorporate functionalities that work with artificial intelligence.

Examples of acceptable terms:

Class 7: *Household cleaning and laundry robots with artificial intelligence.*

Class 9: *Artificial intelligence software for vehicles*.

6.6 Assembly services

These services in Class 40 cover the aspect of made-to-order manufacturing processes where several components are put together and interconnected to form finished or semi-finished goods.

Assembly services in Class 37 can only refer to the installation of goods and must be specified in more detail to that effect.

Note that the assembly of ready-built houses will be understood as construction services and therefore will only be correct in Class 37.

See also *Manufacturing services*.

6.7 Association services or services provided by an association to its members

These, and similar terms, are too unclear and imprecise to be acceptable. The type, or scope, of the service provided needs to be mentioned.

Examples of acceptable specifications:

Class 35: *Association services in the nature of business administration services*.

Class 45: *Services provided by an association to its members in the form of legal services*.

See also *Charitable services*.

6.8 Beauty apparatus

The term *beauty apparatus* is not sufficiently clear and precise to be accepted in any class. It must be further specified.

Examples of acceptable terms:

Class 7: *Sprayers (machines) for applying artificial sun tanning preparations*.

Class 8*: Hand-operated instruments/tools for beauty purposes*.

Tattooing needles/apparatus.

Depilatory apparatus (electric and non-electric).

Laser hair removal apparatus.

Photoepilation apparatus.

Class 10: *Massage apparatus*.

Apparatus for the treatment of cellulite.

Lasers for cosmetic beauty treatments.

Class 11: *Ultra-violet ray lamps for cosmetic purposes*.

Sun beds.

Steam apparatus for cleaning the skin.

Class 21: *Cosmetic brushes and applicators*.

Cosmetic apparatus for microdermabrasion.

6.9 Blogs (provision of -)

The term *provision of blogs* on its own is analogous to *provision of information*, and as such the term lacks clarity and precision. The subject matter of the blog

must be specified, and the term classified accordingly. See *paragraph 6.57 Providing information*.

Examples of acceptable specifications that define the subject matter of the information provided via a blog:

Class 35: *Providing corporate blogs*

Class 39: *Providing travel blogs*

Class 41: *Providing educational blogs*

Class 43: *Providing culinary art blogs*

Services that allow users to communicate by blogs, or to host them, will be classified according to the nature of the services provided:

Class 38: *Communication by online blogs*

Class 38: Providing access to online blogs

Class 41: *Writing services of blogs*

Class 42: *Hosting of online blogs*

Class 42: Creation and maintenance of software for blogs

6.10 Bringing together of services

See *Ordering of services* and *Retail and wholesale services*.

6.11 Broadcasting and/or transmission services

These services are proper to Class 38; both mean the same thing. The services provided in this area only cover the provision of the means of communication (e.g. the provision of a network of fibre-optic cables; the provision of broadcasts or transmissions via geostationary satellite transmission facilities; the rental of communications apparatus and systems). Class 38 does **not** cover any programmes, advertising, information or advice that may be transmitted by means of telecommunications or broadcasting technology. Those services would remain in the appropriate classes.

6.12 Brokerage services

These are services provided by an individual or company who arranges transactions between a buyer and a seller. The broker may never see the goods or services in question.

As most transactions arranged by a broker involve the transfer of money, brokerage services as such are classified in Class 36, but there may be other specific brokerage services in other classes.

Examples of brokerage services:

Class 35: *Brokerage of name and address-based lists*.

Class 36: [A large number of listings for] *brokerage of futures, carbon offsets, real estate, bonds, securities and other financial-based items*.

Class 39: *Brokerage services relating to distribution, transport, and storage.*

6.13 Cases (and carrying bags)

Cases (and bags) adapted to carry or transport the good they are intended to contain are, in principle, classified in the same class as the good they are adapted to carry. For instance *laptop bags* are proper to Class 9.

Cases and bags adapted to carry or transport goods should not be confused with non-adapted carrying bags, which are classified in Class 18, whilst disposable paper and plastic shopping bags and garbage bags are in Class 16, and laundry bags are in Class 22.

6.14 Charitable services

This term is too unclear and imprecise to be accepted in any class without further qualification.

Charitable or humanitarian services are services provided for non-monetary benefit, serving the public interest or common good and are defined by the actual service offered. Therefore, they can be classified in any of the service classes, giving the correct definition.

Examples:

Class 35*: Charitable services, namely administration and general office work*.

Class 36*: The organisation of charitable collections; charitable fund raising*.

Class 38*: Telecommunications services for charitable purposes*.

Class 39*: Charitable services, namely ambulance transport*.

Class 40*: Charitable services, namely water treatment services*.

Class 41*: Charitable services, namely education and training*.

Class 42*: Charitable services, namely environmental protection services*.

Class 43*: Charitable services, namely providing food and drink and temporary accommodation*.

Class 44*: Charitable services, namely providing medical services*.

Class 45*: Providing clothing to needy persons [charitable services].*

6.15 Collection and storage services

In the case of physical goods, both collection and storage services would be proper to Class 39. This class includes *transport* and *warehousing* in its listing. This would also include the collection and physical storage of data, whether in written form or recorded on media (the Nice Classification has *physical storage of electronically stored data or documents* in Class 39).

Office services of electronically collecting, collating and manipulating data are all proper to Class 35.

Storage of digital data and *electronic data storage* are seen to be in analogy with *hosting services*, and so are proper to Class 42. *Cloud computing data storage services* are also proper to Class 42.

6.16 Consulting and advisory services

See *Providing information*.

6.17 Commercial intermediation services

These are understood as third-party services of an agent for, or arranger of, a business contract between two trading parties for a commission or a fee. Since the principal activity would be aimed at closing trade agreements for others, such services are considered proper to Class 35.

However, it is important to distinguish between such commercial intermediation, which is strictly a business service, and the arranging of services for others as such, which would in general be seen as an integral part of the provision of those services themselves, and classified analogously.

6.18 Computer games and computer games apparatus

The terms c*omputer games* and v*ideo games* are highly similar and are treated in the same way.

The dictionary reference for computer games is:

1. (**Noun**) ‘any of various electronic games that are played by manipulating an input device in response to the graphics on the screen’ (*Collins English Dictionary*).

Class 9 covers the software necessary for computer and video games, Class 28 covers the apparatus. If the terms *computer games* or *video games* are applied for as such, the class will define the nature of the goods covered.

Some game*s* in Class 28 could come loaded with software. If the games are not loaded on the devices, they will be recorded on data carriers or will be downloadable. In such

cases, the games are considered to be game programs, and will therefore be classified in Class 9.

6.19 Curtains and blinds

Blinds, in all their forms, can be used on windows both internally and externally. The classification of these goods depends upon the purpose of the goods and their material composition.

Curtains are normally used indoors and are classified similarly according to their material composition.

Examples of acceptable entries:

Class 6: *Outdoor blinds of metal*

External metal blinds as part of a building for security purposes

Class 17: *Curtains of asbestos (safety -).* (The material and purpose determine the classification.)

Class 19: *Blinds [outdoor] not of metal and not of textile.* (These goods are probably made of wood.)

Class 20: *Blinds (slatted indoor -)*

Venetian and vertical window blinds

Indoor window blinds

Blinds (indoor window -) [shades] [furniture]

Curtains (bamboo -)

Paper blinds

Curtains (bead -) [for decoration]

Class 22: *Outdoor blinds of textile.*

The vast majority of curtains will fall under Class 24, since most domestic curtains (sometimes referred to as ‘drapes’) are made of textiles or plastic.

Care should be taken with any references to curtain walling, or curtain walls. These refer to a type of construction technique relating to buildings, and the associated goods are building materials proper to Class 6 (for metal goods) or Class 19 (for non-metallic goods).

6.20 Custom manufacture/manufacturing for third parties

See *Manufacturing services*.

6.21 Customer services

Although many businesses have departments dedicated to *customer services*, this term on its own is considered lacking in clarity and precision and must be explained further. An example of an acceptable specification in Class 35 would be *providing advice and support to clients for sales purposes and to achieve customer loyalty*.

6.22 Data services

The term cannot be accepted on its own. It must be qualified.

The provision of data can be proper to several classes depending on the way in which the data is provided or on the nature of the data being provided. In each case the exact nature of the service being offered will need to be stated; *the provision of data* is not enough.

Examples of acceptable terms and their relevant classification:

Class 44: *Provision of data (information) relating to the use of pharmaceuticals;*

(This would refer to the systemised provision of data that could only be interpreted by someone with specialised medical training.)

Class 45: *Provision and interpretation of data relating to animal tracking.*

(This would refer to services in relation to the relocation of a lost or stolen animal. If the data were for other purposes, the classification would be proper to other classes, for example, Class 42 for measuring or scientific reasons.)

The same applies to the *provision of a database* as databases provide information on particular subject matters. Therefore, the term *provision of a database* is not sufficiently clear and precise. The applicant must define the subject matter and classify the term according to the services to which the information contained on the database relates.

Examples of acceptable terms:

Class 42: *Providing an online searchable database containing scientific research information;*

Class 45: *Providing an online searchable database featuring information on patents.*

See also *Providing information*.

6.23 Design services

Design services are, as such, proper to Class 42.

Design of advertising materials, however, is proper to Class 35 as it is part of the advertising services themselves.

Likewise, *landscape design*, *floral design*, *turf design* and *planning [design] of gardens* are proper to Class 44 as they are horticultural services.

6.24 Digital imaging services

The term *digital imaging services* cannot be accepted in Class 41 without further details. This is because digital imaging can be classified in more than one class, depending on the field the service refers to: for example, medical, information technology or photography.

Examples of acceptable terms:

- *digital imaging (photo editing*) in Class 41;
- *medical imaging services* in Class 44;
- *rendering of computer graphics (digital imaging services)* in Class 42.

6.25 Downloadable goods and material

All goods and material that are downloadable belong to Class 9.

Downloadable goods refers to, inter alia, *publications, music, ring tones, pictures, photographs, films* or digitised information in general.

Downloadable material is content that can be copied into a computer's memory or telephone, tablet or smart device, etc., especially from the internet, and can then be used independently of its source.

While these goods are proper to Class 9, the terms d*ownloadable goods* and *downloadable material* lack clarity and precision. It is not necessary to indicate the digital form in which they appear, that is, in the form of digital files or as downloadable software, etc. However, the type of goods must be specified further to be able to identify what is being protected.

Acceptable examples:

Downloadable goods, namely electronic publications

Downloadable material, namely music files.

See 4.4. Virtual goods, services in virtual environments and NFTs.

6.26 Electricity and energy

The following is a guide to some of the goods and services related to electricity and energy in general.

Class 4: *Electrical energy* (although electrical energy is intangible, it is seen as analogous to other fuels, and so proper to Class 4)

Class 7: *Electrical generators*

Class 9: *Apparatus and instruments for conducting, switching, transforming, accumulating, regulating, or controlling electricity*

Class 11: *Heat generating apparatus*

Class 35: *Procurement of contracts concerning energy supply*

Class 36: *Brokerage of electricity* (see also paragraph 6.12 *Brokerage services*)

Class 37: *Recharging of batteries*

Class 39: *Distribution of electricity*

Class 39: *Storage of electricity*

Class 40: *Generation of electricity*

Class 42: *Measuring services with regard to energy consumption*.

Note that the wording *retail or wholesale of energy or of electricity* will not be accepted. This is because energy and electricity in themselves cannot be the subjects of retail or wholesale services. Therefore, this term must be rephrased to reflect the services that need to be protected. For example, *electricity supply services* would be accepted in Class 39 or *the bringing together, for the benefit of others, of a variety of electricity provider services, enabling customers to conveniently compare and purchase those services* would be acceptable in Class 35. For more information on retail see paragraph 6.60.

See also paragraph 6.68 *Solar power*.

6.27 Electronic and electric apparatus

The terms *electronic and electric apparatus, devices* or *instruments* are insufficiently clear or precise for classification purposes; they are not acceptable in any goods class and should therefore be specified in more detail.

Specifications of *electronic and electric apparatus, devices* or *instruments*, such as the examples listed below, are also considered to lack clarity and precision:

- *electronic and electric apparatus for household purposes*;
- *electronic and electric apparatus for use in hairdresser salons*;
- *consumer electronics*.

6.28 Electronic cigarettes

Electronic cigarettes, e-cigarettes or e-cigs are - for classification purposes - acceptable only in Class 34, even if they are intended to serve a medical purpose. Non-electronic parts of these types of cigarettes, such as cartridges, atomisers or (aroma) substances, are also classified in Class 34.

Electronic parts, such as batteries and microcomputer-controlled circuits for electronic cigarettes, are not acceptable in these classes and belong - as usual - to Class 9.

6.29 Expert opinion services

The area of expertise has to be indicated for this type of service; classification will depend on the area of expertise indicated (see by analogy *Providing information*).

6.30 Facilities management services

The term *facilities management services* is acceptable in Class 37 because it can be understood as covering all the services necessary to support workspace and building infrastructure, such as cleaning, repair and maintenance services.

However, if the term is applied for in other classes, the branch of activity should be specified as the term would not be seen to naturally belong to other classes than Class 37.

6.31 Food additives and food supplements

Food additives, on the one hand, are substances added to food for non-nutritional purposes to improve the colour, flavour, preservation, etc. *Food additives* should in principle be classified according to the function group they belong to.

- *Composition/consistency*. Chemical and organic compositions used in the manufacture of food, such as binders, emulsifiers, stabilisers, thickeners, gelling agents or preservatives, are proper to Class 1. They are used to enhance or otherwise alter the consistency and durability of the food.
- *Colour*. Colourants in general are classified in Class 2.
- *Flavour. Flavourings for* food are classified in Class 30. These also include essential oils for enhancing flavour.
- *Fillers/bulking agents for animal feed*. Class 31 contains complementary foodstuffs, or additional foods, used mostly as bulk fillers with little or no nutritional value. Examples of such goods would be corncobs, peanut hulls or cereal by-products.

Food supplements, on the other hand, are dietetic substances taken to supply nutrients to augment those provided by a regular diet. They are concentrated sources of nutrients (i.e. minerals and vitamins) or other substances with a nutritional or physiological effect that are usually marketed in ‘dose’ form such as pills, tablets, capsules and liquids in measured quantities, and are therefore proper to Class 5.

Veterinary, medical or *nutritional supplements*, such as trace elements, antioxidants, amino acids, minerals or vitamins, are meant to sustain or improve the health of humans or animals and are therefore proper to Class 5.

6.32 Foodstuffs

Class 29 includes mainly foodstuffs of animal origin, as well as vegetables, seaweed and other horticultural comestible products that are prepared for consumption or conservation (1/1/2026). Class 30 includes mainly foodstuffs of plant origin, except fruit and vegetables, prepared for consumption or conservation, as well as auxiliaries intended to improve the flavour of food. Class 31 includes mainly agricultural and aquacultural products not having been subjected to any form of preparation for consumption; live animals and plants; and foodstuffs for animals.

Food for babies, medical meal replacements and dietetic food, adapted for medical or veterinary use, can be found only in Class 5. However, if not specifically adapted for medical or veterinary purposes, foodstuffs enhanced with or lacking a specific ingredient, such as *dairy-free chocolate*, *gluten-free bread*, *sugar-free sweets, calcium-fortified milk, sodium-free salt* or *vitamin/mineral-enriched breakfast cereals,* do not belong to Class 5 and are classified following the instructions in the Nice Classification general remarks.

6.33 Franchising

The verb ‘to franchise’ refers to the giving or selling of a franchise to another party. As a noun, ‘franchise’ means ‘an authorisation granted to an individual or group to trade in a particular area for a stated period’ (*Oxford English Dictionary*).

According to the general remarks in the Nice Classification, ‘Services rendered in the framework of franchising are in principle classified in the same class as the particular services provided by the franchisor (e.g. business advice relating to franchising (Cl. 35), financing services relating to franchising (Cl. 36), legal services relating to franchising (Cl. 45)).’

Without any more detailed specification, the Office will not accept the term *franchise service* or *franchising services* in Class 35. In order to be acceptable a clarification is required.

In order to classify the term properly, it is necessary to understand the actual nature of the service.

Services rendered by the franchisor **and** provided to the franchisee most commonly include business and marketing assistance (Class 35), financial management (Class 36), training (Class 41) and, to some extent, legal assistance (Class 45).

Examples of how the services provided by a restaurant franchisor could be classified:

Class 35: *Business assistance relating to starting and running a restaurant franchise*

Class 36: *Financial consultancy relating to franchising*

Class 45: *Licensing services relating to franchising.*

Example of how the services rendered in the context of a franchised restaurant could be classified:

Class 43: *Restaurant services; provision of food and drink.* (This would be the principal business activity of the applicant, and the subject of the franchise.)

It is not necessary to mention that such services are provided by a franchise.

However, services provided by a franchising agency offering to find proper third-party candidates for signing a franchising contract belong to Class 35 (by analogy to procurement of commercial contracts for others). Most services rendered by franchising agencies would fall into Class 35 as being business assistance.

6.34 Gadgets

The term *gadgets (electronic or otherwise)* is considered unclear and imprecise in all classes and must be specified in more detail.

6.35 GPS systems - location, tracking and navigating

GPS and *satellite navigation systems* (Class 9) provide location, tracking and navigating services, to provide the user with information.

The easiest way to classify these services is to divide them into those services that provide the telecommunications that run the services (Class 38) and those that provide information via a GPS device. The range of information provided goes beyond mere travel route information (Class 39). It can include information regarding restaurants and accommodation (Class 43), information regarding shopping outlets (Class 35) or telephone numbers (Class 38).

The use of GPS devices in relation to the movement of vehicles and people can also lead to classifications over a range of classes. Route planning services (Class 39) have already been mentioned. This classification would also extend to logistic or freight moving companies keeping track of their vehicles using the same devices.

GPS systems can also be used, in conjunction with other technology, to locate the source of a mobile telephone signal. If this is done as part of a telecommunication service it will be proper to Class 38. If, however, it is done as part of a criminal investigation service it will be proper to Class 45.

Other services can be associated with the services listed above. For example, the creation of maps for GPS systems is proper to Class 42. The downloadable applications that run the service or provide alternative ‘voices’ are proper to Class 9. The retail services for providing the downloadable applications are proper to Class 35.

Examples of how these and other terms are classified:

Class 35: *Compilation and provision of commercial directory information regarding service providers for GPS navigation*

Class 38: *Satellite transmissions*

Providing public subscribers directory information for GPS navigation

Providing access to general information supplied via satellite transmission

Telecommunications services for location and tracking of persons and objects

Tracking of mobile telephones via satellite signals

Location of mobile telephones via satellite signals

Providing access to GPS navigation services via satellite transmission

Satellite transmission of navigation data

Class 39: *Providing GPS navigation services*

Providing traffic information services via satellite transmission

Providing road information services via satellite transmission

Location services for logistics purposes of vehicles and goods

Tracking services for logistics purposes of vehicles and goods

Class 42: *Providing weather information via satellite transmission*

Creation of GPS maps

Class 45: *Tracing and locating of missing persons via satellite transmission*

Tracking of persons carrying electronic tagging devices

Security tracking services of vehicles

Security location services of vehicles.

6.36 Hair styling

Most *electric and non-electric hair styling apparatus* is classified in Class 8 (e.g. *electric hair curling irons; hair tongs* [non-electric hand implements] - these could also be gas operated; *crimping irons for the hair,* etc.). Exceptions are:

Class 11: *Hair dryers*

Class 21: *Combs and brushes* (non-electric and electric)

Class 26: *Hair curlers/rollers, other than hand implements* (e.g. clip-on, sponge or hook-and-loop fastener type).

6.37 Hire services

See *Rental services*.

6.38 Hotline services

Also services of call centres. See *Providing information*.

6.39 Humanitarian aid services

Office practice on *humanitarian aid services* is the same as that on *charitable services*: the nature of the services must be specified (see *Charitable services*).

6.40 Internet services, online services

The term *internet services* is not sufficiently clear and precise to be accepted in any class. It must be further defined.

A range of services, offered by individuals and businesses to other individuals and businesses, relate to the setting up, operation and servicing of websites. These are covered by appropriate entries in a number of classes.

An even wider range of services is offered to customers through the medium of telecommunications including via the internet. It is possible, over the internet, to shop, obtain banking advice, learn a new language, or listen to a ‘local’ radio station situated on the other side of the world.

The Nice Classification system generally applies regardless of whether the service is provided face-to-face, on dedicated premises, over a telephone or online via a database or website.

Examples of acceptable terms:

Class 35: *Advertising services provided over the internet*

Class 36: *On-line banking services*

Class 38: *Internet service provider services*

Class 41: *On-line gaming services*

Class 42: *Providing on-line support services for computer program users*

Class 45: *Online social networking services.*

6.41 Kits and sets

It is common in trade for certain goods to be sold in groups of more than one item. If the items are all the same - for example, a pack of three toothbrushes - then the classification is simple. However, sometimes the collection of goods could be the component parts of another item, or have a function that is not defined by the individual goods. These groups of goods sometimes have collective names such as ‘kit’ or ‘set’.

These small words can have a great impact on (1) their acceptability as a collection of goods and (2) their appropriate classification.

A ‘kit’ can mean either:

1. a set of parts ready to be made into something (e.g. a kit for a model plane*)*, or
2. a set of tools or equipment that is to be used for a particular purpose (e.g. a first-aid kit).

A ‘set’ is a number of articles that are thought of as a group. This may or may not have a defined number (e.g. a set of keys, a set of saucepans, a set of golf clubs, a cutlery set).

Kits or sets that are comprised of goods that might not belong to only one single class of the Nice Classification can be accepted by the Office if the type of the kit or set is indicated and is commonly available on the market.

In general, a kit or set is classified according to its function or purpose. When the kit or set is comprised of goods that are classified in more than one class, it will be classified by either what the kit or set is going to be used for, or, if something is to be constructed from its components, what the finished article will be.

- If the **unspecified** kit or set is a combination of a number of components **around a theme** and also **commonly available on the market**, it will be classified according to the class in which **the majority of the individual components** are classified or to which the **primary components** belong. An example of this would be *sewing kits*; this might be comprised of different items which could also belong to other classes, but will be accepted as such in Class 26.
- If the **unspecified** kit is for the **purpose of making a single object**, it will be classified according to the item that it is intended to make. For example*, kits of parts for assembly into articles of furniture* will be accepted in Class 20, to which *furniture* belongs, and *plastic model kits for making toy vehicles* will be classified in Class 28, to which *toy vehicles* belong.
- If the goods making up the kit cannot be ascertained, the term will be seen as lacking clarity and precision and must be objected to. For example, *do-it-yourself kits* in Class 7 will not be accepted.

There is no need for the applicant to indicate the particular components of a kit or set. In fact, a kit or set around a theme that is commonly available on the market, or that is for the purpose of making a single object, is in itself sufficiently clear and precise to determine its scope of protection and the class to which it belongs.

However, if a kit or set is indicated as a mere group of components that would otherwise belong to different classes, and if customers would not expect these goods to be bundled together as common practice on the market, then each of the components should be separated and classified according to their function or purpose, and according to the principles of the Nice Classification. For example, the term *tool kits comprising hand saws*, *power-driven saws, and carpenter’s levels* in Class 8 will be objected to. The individual components should be classified in individual classes as

follows: *hand saws as part of tool kits* (Class 8), *power-driven saws as part of tool kits* (Class 7) and *carpenter's levels as part of tool kits* (Class 9).

Examples of acceptable terms:

Class 3: *Cosmetic kits*.

Class 5: *First aid kits.*

Class 8: *Manicure sets.*

Class 9: *Hands-free kits for phones*.

Class 16: *Drawing sets.*

Class 21: *Portable cooking kits for outdoor use*.

6.42 Leasing

According to the general remarks in the Nice Classification, 'Leasing services are analogous to rental services and therefore should be classified in the same way. However, hire- or lease-purchase financing is classified in Cl. 36 as a financial service.'

Note that, although the definition of *leasing* might differ across languages, for the sake of consistency it will be interpreted as indicated above, based on the meaning of the term *leasing* in English.

See also *Rental services*.

6.43 Mail order

See *Retail and wholesale services*.

6.44 Manuals (for computers, etc.)

Electronic items such as computers, printers, photocopiers and other electronic items are often delivered as new goods to the customer with a list of operating instructions. The instructions can be in paper (printed) format or in an electronic format, such as a recording on a disc, or as a downloadable or non-downloadable document available on the manufacturer's website.

Examples:

Class 9: *Manuals **in electronic format*** for *computer software*

Class 16: ***Printed** manuals for computer software.*

6.45 Manufacturing services

Manufacturing is only seen as a service when it is undertaken for third parties. Custom manufacturing of certain single, 'one-off', goods for third parties, for example a sailing boat or a sports car, by a specialist in that field would be proper to Class 40. Custom construction of, for example, made-to-measure kitchen units would be included in Class 40, but their installation would be proper to Class 37.

See also *Assembly services*.

6.46 News services

The term *news services* is acceptable in Class 41 by analogy with *news programme services for radio or television* or *news reporting services*; if it is applied for in other classes, it will need to be specified.

News agency services are proper to Class 38. They are essentially a hub or collection point through which journalists and others can file and obtain newsworthy materials (in the form of stories, script or photographs). They do not perform any other function such as editing or verification services.

Examples:

Class 35: *News clipping services*

Class 38: *News broadcasting services*

Class 40: *Printing of newspapers*

Class 41: *Presentation of news (programmes)*

As far as electronic news publications are concerned, *downloadable news pod casts*, *news clips*, *news items*, *news publications*, etc. are all goods that are proper to Class 9.

The term *provision of news* is understood as being analogous to *providing information* and is therefore classified according to the subject matter to which the news relates. The applicant must define this subject matter and classify the term accordingly.

Examples:

Class 41: *Provision of news relating to sports*

Class 44: *Providing news and information in the field of medicine*.

6.47 Online services

See *Internet services*.

6.48 Ordering of services

The ordering of goods/services for others can be accepted in Class 35 as a business service/office function. There are individuals and companies that offer services providing solutions to a variety of problems on behalf of others. For example, if you need a leaking tap to be fixed, the intermediary (service provider) will arrange the services of a plumber for you. This classification is analogous with the Nice Classification entry *procurement of services for others [purchasing goods and services for other business]*.

6.49 Perfuming and air freshening preparations

There are preparations, and associated apparatus, that serve merely to mask unpleasant smells (perfume) or chemically 'wrap up' and remove unpleasant odours (deodorisers). They are properly classified as follows:

Class 3: *Air fragrancing preparations*

Incense

Potpourris [fragrances]

Sachets for perfuming linen

Scented wood

Fumigation preparations [perfumes]

Room sprays

Class 5: *Air deodorising preparations*

Air purifying preparations

Class 11: *Air deodorising apparatus*

Class 21: *Perfume burners*

Vaporizers for perfume sold empty.

Other goods that may release pleasant odours include *perfumed candles* (proper to Class 4 as the release of perfume is a secondary characteristic) and *perfumed drawer liners* (proper to Class 16 as they are analogous to *packaging material* and usually made of paper).

6.50 Personal and social services rendered by others to meet the needs of individuals

The general indication *personal and social services rendered by others to meet the needs of individuals* is not sufficiently clear and precise and will not be accepted by the Office. See also paragraph 4.3.1.

The applicant needs to make the wording more specific.

Many personal and social services are classifiable but are proper to classes other than Class 45.

Examples:

Class 36: *Personal insurance services* (such as life assurance)

Class 41: *Personal tuition*

Class 44: *Personal medical services*

Class 45: *Personal body guarding*

Consultancy services relating to personal appearance

Personal shopping services

Concierge services.

6.51 Personal assistant services

This term lacks clarity and precision and needs to be explained further. Personal assistants offer assistance in managing their employer's personal and/or business life by taking over specific tasks, which, however, are not clearly defined. The activities involved could cover services proper to various different classes such as:

- *Appointment scheduling services* (Class 35);
- *Telephone answering* (Class 35);
- *Personal trainer services [fitness training]* (Class 41);
- *Personal reminder services in the area of upcoming important dates and events* (Class 45);
- *Personal fashion consulting services* (Class 45);
- *Dog walking services* (Class 45).
- *Organising of personal possessions for others* (Class 45). (1/1/2026)

A similar assessment will be applied to *lifestyle management* as this is also considered to lack clarity and precision for classification purposes.

6.52 Precious metal goods

The general indication *goods of precious metals or coated therewith, not included in other classes* in Class 14 is not sufficiently clear and precise and will not be accepted by the Office (see also paragraph 4.3.1). The applicant needs to make the wording of the term more specific.

Caution needs to be applied when classifying goods made from precious metals.

Historically, virtually all goods made from, or coated with, precious metals were grouped together in Class 14. It was considered that the material had an influence on why the goods were bought and that in turn determined where the goods were classified.

Since 1 January 2007, many goods that would have been in Class 14 have been reclassified. This reclassification of the goods is based on their function rather than the material from which they are made.

Examples of goods classified according to their function or purpose:

Class 8: *Cutlery of precious metal*

Class 16: *Pen nibs of gold*

Class 21: *Teapots of precious metal*

Class 34: *Cigarette and cigar boxes made of precious metals.*

6.53 Protective clothing

If the **primary** function of items that are worn (or sometimes carried) is the prevention of serious and/or permanent injury or death, or protection against, for example, contact with or exposure to extremes of temperature, chemicals, radiation, fire, or environmental or atmospheric hazards, then those goods will be proper to Class 9.

Examples of such protective goods include hard hats worn on building sites, and helmets worn by security guards, horse riders, motorcyclists, and American football players. Bullet-proof vests, metal toe-capped shoes, fireproof jackets and metal butchers' gloves are further examples: they are not clothing as such. Aprons, smocks and overalls merely protect against stains and dirt and are not proper to Class 9 but to Class 25 as general clothing. Protective sporting articles (except helmets) are proper to Class 28 as none of them protect against loss of life or limb.

6.54 Providing a website

Providing a website is understood as being analogous to providing information, and is classified according to the subject matter to which the website is dedicated. The applicant has to define this subject matter and classify accordingly, unless it is specified that the services refer to website development or the hosting of the content (Class 42).

See also *Providing information*.

6.55 Providing an online platform

These services are proper to Class 42 since they are understood to refer to the provision of a computing platform. They could also refer to the provision of an operating system, a browser, an application, a virtual machine or cloud - all being software solutions.

6.56 Providing downloadable content

Provision of downloadable content is classified according to the nature of the content (see *Providing information*); the wording of the term should make this clear.

Class 41 examples:

- *providing downloadable electronic books* (Class 41);
- *provision of downloadable electronic games* (Class 41);
- *providing downloadable digital music* (Class 41).

Class 42 examples:

- *providing downloadable applications (Class 42);*
- *providing downloadable computer operating systems* (Class 42).

As with the term *provision of information*, *provision of downloadable content* without further specification lacks clarity and precision.

The retail/wholesale of downloadable content is different – this would refer to bringing together a variety of downloadable content for the benefit of third parties, making it available to users to select from and purchase.

Class 35 examples:

- *retail services in relation to downloadable electronic publications;*
- *retail services in relation to downloadable music files;*
- *wholesale services in relation to downloadable computer software.*

6.57 Providing information

According to the general remarks in the Nice Classification, 'Services that provide advice, information or consultation are in principle classified in the same classes as the services that correspond to the subject matter of the advice, information or consultation, e.g., transportation consultancy (Cl. 39), business management consultancy (Cl. 35), financial consultancy (Cl. 36), beauty consultancy (Cl. 44).'

The applicant has to define the subject matter of *providing information*, and classify it accordingly. The fact that information is provided by electronic means (e.g. telephone, computer, email, website or blog) does not affect the classification of these services.

Providing advice, consultancy and information with regard to the aforesaid services at the end of the indication of any service class will be accepted.

6.58 Rental services

According to the Nice Classification general remarks, 'Rental services are in principle classified in the same classes as the services provided by means of the rented objects (e.g., Rental of telephones, covered by Cl. 38).'

The same principle applies to *leasing services*, which can be found in the HDB in all of the service classes.

6.59 Reservation services and booking services

Reservation services and *booking services* are services that relate to different areas of activities, and are classified according to their subject matter in different classes. Therefore, the terms *reservation services* and/or *booking services* on their own are not considered clear and precise. The services to which the reservation and/or booking is made should therefore be specified.

If the *reservation services* and/or *booking services* concern travel, for example, *ticket booking services for travel* or *tour reservation services*, the terms are proper to Class 39. Likewise, *ticket reservation and booking services for education, entertainment and sports activities and events* are classified in Class 41.

Consequently, *reservation services* and *booking services* will be classified in the same class as the services for which the reservation and/or booking is made.

Examples of acceptable terms:

Class 35: *Employment booking services for performing artists*.

Class 39: *Booking of seats for travel*.

Class 39: *Transport reservation*.

Class 41: *Booking of seats for shows.*

Class 41: *Ticket reservation for cultural events*.

Class 43: *Boarding house bookings*.

Class 43: *Hotel reservations*.

Class 43: *Reservation of restaurants.*

6.60 Retail and wholesale services

There is an indication in the explanatory note to the listing of Class 35 in the Nice Classification that the term ‘the bringing together, for the benefit of others, of a variety of goods (excluding the transport thereof), enabling customers to conveniently view and purchase those goods’ is proper to Class 35. In accordance with this indication, *Retail services* are classified in Class 35.

As stated in the judgment of 04/03/2020, in Joined Cases C-155/18 P to C-158/18 P, BURLINGTON / BURLINGTON ARCADE et al., EU:C:2020:151, § 126:

*‘*It follows from that explanatory note that the concept of “retail services” relates to three essential characteristics, namely, first, the purpose of those services is the sale of goods to consumers, secondly, they are addressed to the consumer with a view to

enabling him or her to conveniently view and purchase those goods and, thirdly, they are provided for the benefit of others.*'*

However, as regards *retail services* or similar services in Class 35 relating to the sale of goods, such as wholesale services, mail order services and e-commerce services, the Office applies the judgment of 07/07/2005, C-418/02, Praktiker, EU:C:2005:425: the term *retail services* is only acceptable where the type of goods or services to be sold or brought together for the benefit of others is indicated with sufficient clarity and precision (see paragraph 4.3). The term *retail services of a supermarket* and, by extension, *retail services of a department store* and similar terms are not acceptable as the goods to be sold are not defined (01/12/2016, T-775/15, Ferli, EU:T:2016:699).

It should also be noted that according to the explanatory notes of Class 35, the term *sale of...* (with no specification of whether this is retail or wholesale) is not acceptable.

The Nice Classification includes *retail or wholesale services for pharmaceutical, veterinary and sanitary preparations and medical supplies*, which shows how these terms can be expressed.

Examples of categories of goods that do not fulfil the requirements of clarity and precision can be found under paragraph 4.3.2.

The general indications of the class headings that are not acceptable (see paragraph 4.3.1) are also not acceptable for retail services for those same general indications. For example, the Office will not accept *retail services for machines*. However, *retail services in relation to agricultural machines* is sufficiently precise and therefore acceptable.

As regards 'retail of services' (i.e. *services that consist of the bringing together, for the benefit of others, of a variety of services, enabling consumers to conveniently compare and purchase those services*), the Court has held that these must also be worded with sufficient clarity and precision to allow the competent authorities and other economic operators to know what services the applicant intends to bring together (10/07/2014, C-420/13, Netto Marken Discount, EU:C:2014:2069).

This decision confirms that the 'bringing together of services' is an activity that is entitled to protection. The Court placed greater emphasis on the importance of defining the services being brought together than on defining the action of 'bringing together' itself (thereby echoing its earlier judgment of 07/07/2005, C-418/02, Praktiker, EU:C:2005:425).

Terms expressing this should satisfy two requirements. Firstly, they should include familiar terms (i.e. 'bringing together', 'for the benefit of others ...' or 'enabling customers to compare and purchase ...') in order to 'frame' the services being brought together and describe the actual retail activity itself. Secondly, the terms used to describe the services being brought together must be understood and accepted in their own right (e.g. legal services, broadcasting services, slimming club services).

In order to meet the fundamental requirements for clarity and precision under Article 33(2) EUTMR, any claim to the retailing or 'bringing together' of services must be worded in this manner.

Examples that will be considered acceptable:

- *The bringing together, for the benefit of others, of a variety of legal services, enabling customers to conveniently compare and purchase those services*
- *The bringing together, for the benefit of others, of slimming club services, video on demand services, and detective agency services, enabling customers to conveniently compare and purchase those services*
- *The bringing together, for the benefit of others, of a variety of broadcasting services, enabling customers to conveniently compare and purchase those services*.

In the case of the bringing together of services, wordings including 'retail services connected with ...', 'retail services connected with the sale of ...' and 'electronic shopping retail services connected with ...' do not provide a clear distinction between the retailing of services and the provision of those services in their own right.

Examples that will not be accepted and will be subject to an objection:

- *Retail services connected with takeaway services*
- *Retail services connected with the sale of legal services*
- *Mail order retail services connected with the sale of detective agency services*.

The CJEU's ruling is not to be interpreted as providing a means of obtaining duplicate protection for services intended to be provided in their own right (whether proper to Class 35 or elsewhere). Nor should it be perceived as an alternative means of providing protection for the advertising of one's own services. Therefore, if an application covers 'the bringing together for the benefit of others of telecommunication services, enabling customers to conveniently compare and purchase those services', these services do not cover the actual provision of telecommunication services, which belongs to Class 38, but only the bringing together of a variety of telecommunication service providers so as to enable consumers to compare and purchase those services conveniently.

Finally, it is not sufficiently precise to specify the goods or services using terms such as 'including', 'in particular', 'for example' or 'such as', since all these terms mean, in principle, 'for example'. They do not restrict the goods or services that follow. Consequently, the abovementioned terms should be replaced by 'namely' or 'being', as they do restrict the goods or services that follow.

6.61 Retail of pre-paid cards

The term *retail of pre-paid cards* without a further specification lacks clarity and precision; the nature of the cards is not clear. Therefore, the exact market sector for which the cards are meant should be specified.

Examples of **acceptable** terms:

Class 35: *Retail of third-party pre-paid cards for the purchase of entertainment services*

Class 35: *Retail pre-paid cards for the purchase of clothing.*

6.62 Robots

The term *robots* lacks clarity and precision; therefore, the nature of the goods has to be specified.

Examples of **acceptable** terms:

Class 7: *Industrial robots*

Class 9: *Humanoid robots with artificial intelligence for use in scientific research*

Class 10: *Surgical robots.*

6.63 Satellite tracking

See *GPS systems - location, tracking and navigating*.

6.64 Sets

See *Kits and sets*.

6.65 Smart goods

The decisive factor for the classification of these goods is their primary function and purpose. An example of this would be term *smartwatches*: these belong to Class 9 as their primary funtion is seen as being that of communication devices rather than horological instruments. Other similar examples in Class 9 are *wearable activity trackers* and *connected bracelets [measuring instruments]*, which clearly show that the primary function and purpose of the goods dictate their classification. Other examples include:

Class 18: *Smart suitcases*

Class 25: *Smart clothing*

Class 28: *Smart toys*

6.66 Social networking services

Social networking services is an acceptable term in Class 45. It would be seen as a personal service that includes the identification and introduction of like-minded people for social purposes.

There are other aspects of the *social networking* industry that could be proper to classes other than Class 45, for example:

Class 38: *The operation of chat room services*

The provision of online forums.

6.67 Software publishing

Software publishing belongs to Class 41. A software publisher is a publishing company in the software industry that serves as an intermediary between the developer and the distributor. Publishing, according to its definition, includes *newspaper publishing* and *software publishing*.

6.68 Solar power

Solar power is energy that is derived from the sun and converted into heat or electricity.

Goods relating to the generation and storage of electricity from solar energy are classified in Class 9.

Goods relating to the generation and storage of heat from solar energy are classified in Class 11.

Services relating to the generation of electricity from solar energy are classified in Class 40.

Class 9: *Photovoltaic cells*

Solar panels, modules and cells

Class 11: *Solar collectors for heating*

Class 40: *Production of energy.*

See *Electricity and energy*.

6.69 Statistics

Regardless of the subject matter, *compilation of statistics* is proper to Class 35 as it is analogous to ‘compiling of data’.

Nevertheless, statistics have to be treated as information. Therefore, *providing statistics* will also be considered lacking clarity and precision unless the subject matter is defined. Consequently, the classification once again depends on the subject matter.

Examples:

Class 35: *Providing market research statistics.*

Class 39: *Providing statistics on traffic flow.*

Class 42: *Providing statistics with regard to rainfall.*

Other services connected with statistics may be classified differently and include:

Class 38: *Providing access to statistical data.*

Class 41: *Publication of statistics.*

Class 42: *Scientific analyses of research statistics.*

6.70 Storage services

See *Collection and storage services*.

6.71 Supply of ...

Care should be taken in accepting this term when it is used to qualify services.

It is acceptable in some circumstances, for example, *supply of electricity* in Class 39, where the term is often closely related to *distribution*. The same applies to the supply of other commodities such as *the supply of water* (Class 39).

The *supply of food* as such is not acceptable since the term is not clear and precise as different services could be implied that are classified in different classes; such as *retail of food* (Class 35), *transport and delivery of food* (Class 39) or *provision of food* (Class 43).

The term *catering services for the supply of meals* (in Class 43) is acceptable because the material being supplied, and the nature of the service, have both been given. The same applies to *supplying of meals for immediate consumption* (in Class 43) since *meals* is understood to be prepared food and is therefore classified in line with *provision of food* (in Class 43).

6.72 Systems

This is another term that can be too unclear or too imprecise to be accepted.

It can be accepted only when qualified in a clear and unambiguous way.

Examples of acceptable terms:

Class 7: *Exhaust systems*

Class 9: *Telecommunication systems*

Computer systems

Alarm systems

Class 11: *Cooling systems for motor cars*

6.73 Tickets (for travel, entertainment, etc.)

A ticket is a ‘promise to supply’, in relation to a service or reservation service, the right to a service.

Examples:

Class 39: *Issuing of airplane tickets*

Class 41: *Ticket agency services (entertainment)*

Note that tickets are not seen as goods retailed in Class 35.

6.74 Tourist/Holiday services

The terms *tourist services*, *holiday services* as well as *tourist office services* are not sufficiently clear or precise, as they can relate to different areas of activity, and services belonging to different classes. The terms must be defined further.

Examples of **acceptable** terms:

Class 39: *Providing tourist travel information*

Class 43: *Tourist agency services for booking accommodation.*

6.75 Video games

See *Computer games*.

6.76 Virtual environment

The term *providing a virtual environment* is neither sufficiently clear nor precise as it can relate to different areas of activities and classes. The term must be defined further.

Examples of acceptable terms:

Class 38: *Providing a virtual chatroom*

Providing access to a virtual environment

Class 42: *Hosting of a virtual environment*

Maintenance of a virtual environment.

See paragraph 4.4.

6.77 Wellness and well-being services

The term *wellness services* is not sufficiently clear or precise, and therefore needs to be specified in more detail. This is because there is currently no definition of such services that would put them into one - and only one - class. Despite being a known market phenomenon, the interpretation of the scope of this service is not entirely clear and can differ from one enterprise to another.

Note that *wellness services provided in beauty salons* or similar indications will not render the term acceptable.

Examples of acceptable clarifications:

Class 41: *Instruction in exercise as wellness club services*

Teaching of meditation as part of a wellness programme

Class 44: *Wellness services for the purpose of beauty care*

Health spa services for wellness

Relaxing massage in wellness centres

Class 45: *Spiritual consultancy aimed at wellness.*